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Federal Register

Wednesday
October 19, 1983

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Federal Maritime Commission

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Cotton
Agricultural Marketing Service

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Federal Crop Insurance Corporation

Fisheries
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Maritime Carriers
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Selected Subjects

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Food and Drug Administration

Pesticides and Pests
Environmental Protection Agency

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Presidential Documents

Title 3—

The President

Proclamation 5119 of October 17, 1983

Wright Brothers Day, 1983

By the President of the United States of America

A Proclamation

1983 marks the eightieth anniversary of the Wright Brothers' historic flight aboard a self-propelled, winged aero-vehicle. That flight, lasting but 12 seconds and spanning only 120 yards, followed 120 years of unsuccessful attempts to accomplish such a feat. Although short when measured against today's trans-meridian flights, its significance was great because it established the foundation for future successes in aviation which continue to enrich the quality of our lives today.

This year we also celebrate the bicentennial of man's first flight. Two hundred years ago, on August 27, 1783, the Montgolfier Brothers of France first launched a manned hot air balloon into the atmosphere. Shortly thereafter, in a balloon constructed by an American lawyer, Peter Carnes, Esq., the first American ventured aloft in a tethered balloon in Baltimore.

This year also marks the twenty-fifth anniversary of the signing of the Federal Aviation Act of 1958. This legislation created the Federal Aviation Administration, which has played a central role in making civil air carriage ten times safer than it was in 1958, thus helping to advance the progress of civil aviation and to fulfill the Wright Brothers' dreams of the future role aviation would have in our world.

To commemorate the historic achievement of the Wright Brothers, the Congress, by joint resolution of December 17, 1963 (77 Stat. 402; 36 U.S.C. 169), designated the seventeenth day of December of each year as Wright Brothers Day and requested the President to issue a proclamation annually inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby call upon the people of this Nation and their local and national governmental officials to observe Wright Brothers Day, December 17, 1983, with appropriate ceremonies and activities, both to recall the accomplishments and to stimulate the development of aviation in this country and throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of Oct., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-28618
Filed 10-17-83; 4:26 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12445 of October 17, 1983

Certification of Containers and Vehicles for Use in International Transport

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including Section 301 of Title 3 of the United States Code, in order to transfer certain functions implementing international conventions concerning customs treatment of containers in international commerce, it is hereby ordered as follows:

Section 1. The Secretary of the Treasury is hereby delegated authority to take all actions, including the issuance of regulations, appropriate to carry out the approval and certification of containers and vehicles for international transport of goods under customs seal pursuant to the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), done at Geneva on January 15, 1959 (TIAS 6633), the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), done at Geneva on November 14, 1975 (TIAS), and the Customs Convention on Containers, done at Geneva on May 18, 1956 (TIAS 6634).

Sec. 2. In discharging this authority, the Secretary shall apply the procedures and technical conditions set forth in the Annexes to the Conventions set forth above, as those Conventions are modified, amended, or otherwise supplemented from time to time.

Sec. 3. The Secretary may prescribe a schedule of fees to defray the costs of the services provided under this Order.

Sec. 4. The Secretary may, to the extent permitted by law, rely upon the services of non-profit firms or associations in carrying out his duties under this Order.

Sec. 5. Regulations issued by the Secretary of Transportation under Executive Order No. 11459 shall continue in force and effect until superseded by regulations promulgated by the Secretary of the Treasury under this Order.

Sec. 6. Executive Order No. 11459 of March 7, 1969, is superseded.

Ronald Reagan

THE WHITE HOUSE,
October 17, 1983.

[FR Doc. 83-28619
Filed 10-17-83; 4:27 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12446 of October 17, 1983

Foreign Service Retirement and Disability System

By the authority vested in me as President of the United States of America by Section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067) (hereafter referred to as "the Act"), and in order to conform further the Foreign Service Retirement and Disability System to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contributions have not been made under section 805(d) of the Act unless—

(1) the participant makes a contribution for such period as provided in such section 805(d); or

(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order.

Sec. 2. *Rounding Down of Annuities.* (a) Section 826(e) of the Act (22 U.S.C. 4066(e)) is deemed to be amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(b) The amendment deemed to be made by section 2(a) of this Order shall be effective with respect to any adjustment or redetermination of any annuity made on or after the date of this Order.

Sec. 3. *Later Commencement Date For Certain Annuities.*

(a) Section 807(a) of the Act (22 U.S.C. 4047(a)) is deemed to be amended to read as follows:

"(a)(1) Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after—

"(A) separation from the Service occurs; or

"(B) pay ceases and the service and age requirements for entitlement to annuity are met.

"(2) The annuity of—

"(A) a participant who is retired and is eligible for benefits under section 609(a) or a participant who is retired under section 813 or is otherwise involuntarily separated from the Service, except by removal for cause on charges of misconduct or delinquency,

"(B) a participant retiring under section 808 due to a disability, and

"(C) a participant who serves 3 days or less in the month of retirement—

shall commence on the day after separation from the Service or the day after pay ceases and the requirements for entitlement to annuity are met.".

(b) The amendment deemed to be made by paragraph 3(a) of this Order shall become effective thirty days after the effective date of this Order.

Sec. 4. *Credit For Military Service.* (a) Section 805 of the Act (22 U.S.C. 4045) is deemed to be amended—

(i) by striking out subsection (e) and substituting the following subsection in lieu thereof:

"(e)(1) Each participant who has performed military or naval service before the date of separation on which the entitlement to any annuity under this chapter is based may pay to the Secretary a special contribution equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 of the United States Code, to the participant for each period of military or naval service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or if the Secretary determines sufficient evidence has not been so provided to adequately determine basic pay for military or naval service, such payment shall be based upon estimates of such basic pay provided to the Department under paragraph (4).

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

"(A) the effective date of this Order, or

"(B) the date on which the participant making the deposit first became a participant in a Federal staff retirement system for civilian employees.—

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (d) of this section.

"(3) Any payment received by the Secretary under this section shall be remitted to the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Secretary as the Secretary may determine to be necessary for the administration of this subsection.

"(f) Contributions shall only be required to obtain credit for periods of military or naval service to the extent provided under section 805(e) and section 816(a), except that credit shall be allowed in the absence of contributions to individuals of Japanese ancestry under section 816 for periods of internment during World War II."; and—

(ii) by redesignating subsection (f) as subsection (g).

(b) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be amended by adding "(1)" after "(a)" and by adding the following new paragraphs at the end thereof:

"(2) The service of an individual who first becomes a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1, 1982, shall include credit for:

"(A) each period of military or naval service performed before January 1, 1957, and

"(B) each period of military or naval service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this chapter is based, only if a deposit (with interest if any is required) is made with respect to that period, as provided in section 805(e).

"(3) The service of an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this chapter is based, subject, in the case of military or naval service performed after December 1956, to section 816(j), as deemed to be added by this Order.

"(4) The service of an individual who first became a participant before the date of this Order shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this chapter is based, subject, in the case of military or naval service performed after December 1976, to section 816(j), as deemed to be added by this Order";

(c) Section 816 of the Act (22 U.S.C. 4056) is deemed to be further amended by adding a new subsection (j) at the end thereof to read as follows:

"(1) Except as otherwise provided by statute or Executive Order, Section 8332(j) of Title 5, United States Code, relating to redetermination of credit for military and naval service, shall be applied to annuities payable under this chapter. The Secretary of State shall redetermine service, and may request and obtain information from the Secretary of Health and Human Services, as the Office of Personnel Management is directed or authorized to do in Section 8332(j).

"(2) Section 8332(j) of Title 5, United States Code, shall not apply with respect to:

(A) the service of any individual who first became a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1982; or

(B) any military or naval service performed prior to 1957 by an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, or any period of military or naval service performed after 1956 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e); or

(C) any military or naval service performed prior to 1977 by any individual who first became a participant before the date of this Order or any period of military or naval service performed after 1976 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e).

(d) Section 822(a) of the Act (22 U.S.C. 4062(a)) is deemed to be amended by striking out the period at the end thereof and inserting in lieu thereof: ", less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 805(e).".

(e) The amendments deemed to be made by Section 4 of this Order shall be effective on the date of this Order.

Sec. 5. *Recomputation at Age 62 of Credit for Military Service of Current Annuitants.* (a) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be further amended so that the provisions of section 8332(j) of Title 5 of the

United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under such Act on or before the date of approval of this Order, or who is entitled to an annuity based on a separation from service occurring on or before such date.

(b) Subject to subsection (c), in any case in which an individual described in subsection (a) is also entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under chapter 8 of the Act (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivors insurance benefit for the determination month by a fraction—

(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

(2) the denominator of which is the total of all wages deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of the Social Security Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1) of such Act) for each such year.

(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under chapter 8 of the Act to the individual for the determination month if section 8332(j) of Title 5 of the United States Code applied to the individual for such month.

(d) For purposes of this section, the term "determination month" means—

(1) the first month the individual described in subsection (a) is entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

(2) the first day of the month following the month in which this Order is issued in the case of any individual so entitled to such benefits for such month.

(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under chapter 8 of the Act for calendar months beginning after the date of this Order.

(f) The Secretary of Health and Human Services shall furnish such information to the Secretary of State as may be necessary to carry out the preceding provisions of this section.

Sec. 6. *General Limitation on Cost-of-Living Adjustment for Annuities.* (a) Section 826 of the Act (22 U.S.C. 4066) is deemed to be amended to add at the end thereof the following new subsection:

"(g)(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay rate payable for class FS–1 under section 403, 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the former participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the Foreign Service Schedule under such section 403 during the period—

"(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired participant, the date the participant's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.".

(b) The amendment made by subsection (a) of this Section shall not cause any annuity to be reduced below the rate that is payable on the date of approval of this Order, but shall apply to any adjustment occurring on or after April 1, 1983 under Section 826 of the Act to any annuity payable from the Foreign Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of this Order.

Ronald Reagan

THE WHITE HOUSE,
October 17, 1983.

[FR Doc. 83-28620
Filed 10-17-83; 4:28 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Under Secretary for International Affairs and Commodity Programs to the Administrator, Foreign Agricultural Service by deleting administrative services responsibility for the Office of International Cooperation and Development (OICD) from the Foreign Agriculture Service (FAS).

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Charles H. Cook, Assistant Administrator for Administration, Office of International Cooperation and Development, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 475–5246.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to delete responsibility for the administrative servicing of the Office of International Cooperation and Development from the delegations of authority of the Foreign Agricultural Service.

This rule relates to internal agency management. Therefore, pursuant to statutory provisions codified at 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

4. Section 2.68 is amended by removing and reserving paragraph (a)(31).

§ 2.68 Administrator, Foreign Agricultural Service.

(a) * * *

(31) Reserved

* * * * *

Dated: October 7, 1983.

For Subpart H:

Alan T. Tracy,

Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 83-28341 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-43-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-336]

Imported Fire Ant Regulated Areas; Interim Rule

Correction

In FR Doc. 83-24300 beginning on page 40198 in the issue of Tuesday, September 6, 1983, make the following correction:

§ 301.81-2a [Corrected]

On page 40200, column one, § 301.81-2a, **Alabama,** line twenty-one from the bottom, the entry for "Lauderdale County" should read *"Lauderdale County,* T. 3S., R. 12.".

BILLING CODE 1505-01-M

Federal Crop Insurance Corporation

7 CFR Chapter IV

Federal Crop Insurance Regulations; General Amendment

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the crop insurance regulations to provide a new level at which the Manager of the Corporation is authorized to take action to grant relief under the provisions of good faith reliance on misrepresentation regulations. The authority to increase such level was granted by the Board of Directors of the Corporation. The intended effect of this rule is to provide a general amendment to all regulations for insuring crops issued by FCIC simultaneously.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action does not constitute a review under such procedures as to the need, currency, clarity, and effectiveness of the regulations issued by FCIC (7 CFR Part 400, *et seq.*).

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981). (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3)

this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501d, *et seq.*), and other applicable law.

The title and number of Federal Assistance Program to which the regulations affected by the rule apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government were informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

Information collection requirements contained in the regulations to which this general amendment applies (7 CFR Part 400, *et seq.*), have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

On May 24, 1983, the Board of Directors authorized the Manager, FCIC, to take action to grant relief in those cases involving good faith reliance on misrepresentation not exceeding $100,000. The previous level at which the Manager was authorized to take such action without Board approval on such cases was $20,000. This authority is contained in all regulations issued by FCIC for crop insurance purposes.

In order for the authority granted by the Board of Directors to be implemented without delay, it is necessary for FCIC to issue this final rule to be effective immediately to amend that section of each crop insurance regulations to reflect the action by the Board.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest.

List of Subjects

7 CFR Part 402

Crop insurance, Raisins.

7 CFR Part 403

Crop insurance, Peaches.

7 CFR Part 404

Crop insurance, Apples, Western U.S.

7 CFR Part 408

Crop insurance, Apples, Eastern U.S.

7 CFR Part 409

Crop insurance, Citrus, Arizona-California.

7 CFR Part 410

Crop insurance, Citrus, Florida.

7 CFR Part 411

Crop insurance, Grapes.

7 CFR Part 413

Crop insurance, Citrus, Texas.

7 CFR Part 414

Crop insurance, Forage seeding.

7 CFR Part 415

Crop insurance, Forage production.

7 CFR Part 416

Crop insurance, Peas.

7 CFR Part 417

Crop insurance, Sugarcane

7 CFR Part 418

Crop insurance, Wheat.

7 CFR Part 419

Crop insurance, Barley.

7 CFR Part 420

Crop insurance, Grain sorghum.

7 CFR Part 421

Crop insurance, Cotton.

7 CFR Part 422

Crop insurance, Potato.

7 CFR Part 423

Crop insurance, Flax.

7 CFR Part 424

Crop insurance, Rice.

7 CFR Part 425

Crop insurance, Peanuts.

7 CFR Part 426

Crop insurance, Combine crops.

7 CFR Part 427

Crop insurance, Oats.

7 CFR Part 428

Crop insurance, Sunflowers.

7 CFR Part 429

Crop insurance, Rye.

7 CFR Part 430

Crop insurance, Sugar beets.

7 CFR Part 431

Crop insurance, Soybeans.

7 CFR Part 432

Crop insurance, Corn.

7 CFR Part 433

Crop insurance, Dry beans.

7 CFR Part 434

Crop insurance, Tobacco (Dollar amount).

7 CFR Part 435

Crop insurance, Tobacco (Quota).

7 CFR Part 436

Crop insurance, Tobacco (Guaranteed).

7 CFR Part 437

Crop insurance, Sweet corn, Canning and freezing.

7 CFR Part 438

Crop insurance, Tomato, Canning and processing.

7 CFR Part 439

Crop insurance, Almonds.

7 CFR Part 440

Crop insurance, Citrus tree, Texas.

7 CFR Part 441

Crop insurance, Grapes, Table.

7 CFR Part 442

Crop insurance, Prevented planting.

7 CFR Part 443

Crop insurance, Hybrid seed.

7 CFR Part 444

Crop insurance, Tomato, Fresh.

7 CFR Part 445

Crop insurance, Peppers.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the regulations contained in Chapter IV of Title 7 of the Code of Federal Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Parts 402, 403, 404, 408, 409, 410, 411, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, and 445, is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (1506, 1516).

§§ 402.5, 403.5, 404.5, 408.5, 409.5, 410.5, 411.5, 413.5, 414.5, 415.5, 416.5, 417.5, 418.5, 419.5, 420.5, 421.5, 422.5, 423.5, 424.5, 425.5, 426.5, 427.5, 428.5, 429.5, 430.5, 431.5, 432.5, 433.5, 434.5, 435.5, 436.5, 437.5, 438.5, 439.5, 440.5, 441.5, 442.5, 443.5, 444.5, 445.5 [Amended]

2. 7 CFR 402.5, 403.5, 404.5, 408.5, 409.5, 410.5, 411.5, 413.5, 414.5, 415.5, 416.5, 417.5, 418.5, 419.5, 420.5, 421.5, 422.5, 423.5, 424.5, 425.5, 426.5, 427.5, 428.5, 429.5, 430.5, 431.5, 432.5, 433.5, 434.5, 435.5, 436.5, 437.5, 438.5, 439.5, 440.5, 441.5, 442.5, 443.5, 444.5, and 445.5, are amended by removing the number "$20,000" and substituting the number "$100,000," wherever it appears.

Done in Washington, D.C., on September 23, 1983.

Dated: October 12, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-28405 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1205

Cotton Board; Reporting and Information

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) is revising the Cotton Board's reporting and information rules and regulations to reflect that cotton received by producers as payment-in-kind for acreage diversion is considered as original production and subject to any assessments required by the Cotton Research and Promotion Act and Order.

DATES: Effective date: October 19, 1983. Comments must be received on or before November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Naomi Hacker (202) 447-2259.

ADDRESS: Written comments may be sent to Naomi Hacker, Chief, Research and Promotion Staff, Cotton Division, AMS, USDA, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. No new costs or additional requirements are being imposed on the affected industry or others.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) because no substantive changes will be made in the present regulations since the changes reflect the inclusion of PIK cotton in the handler reporting requirements. The costs of compliance will not be increased, recordkeeping requirements will not be increased and the changes in the regulations will not affect the competitive position or market access of small entities in the cotton industry.

It has been determined also that a situation exists which warrants the publication of this action without the opportunity for a prior public comment period because the PIK program is in effect and transactions involving upland cotton have or will occur which necessitate the changes made herein to the reporting and information provisions of the Cotton Board Rules and Regulations.

Accordingly, pursuant to 5 U.S.C. 553 it is found upon good cause that notice and other public procedures are impracticable, unnecessary, and contrary to the public interest, and good cause is found for publishing this interim final rule at this time effective immediately with opportunity for public comments after publication. Further, a 30-day post-comment period is deemed adequate in view of the fact that the interim rule would make minimum reporting changes to applicable provisions of the regulations to conform to the previously implemented PIK program and transactions resulting therefrom.

In compliance with Office of Management and Budget (OMB) regulations, 5 CFR Part 1320 Controlling Paperwork Burdens on the Public, which implement the Paperwork Reduction Act of 1980, Pub. L. 96511, the information collection requirements contained in this proposed revision have been submitted to OMB for review as prescribed in Part 1320 (48 FR 13666) for clearance of collection of information requirements, under section 3504(h) of the Paperwork Reduction Act. Comments concerning the information collection requirements contained in this interim rule may be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer, AMS/USDA, Washington, D.C. 20503, Telephone (202) 395-7340.

Background

The Cotton Research and Promotion Act (7 U.S.C. 2101 *et. seq.*) provides for the collection of assessments on each bale of upland cotton marketed to support cotton research and promotion activities. The Cotton Research and Promotion Order, which implements the Act, was approved in a beltwide referendum of cotton producers. A 20-member Cotton Board appointed by the Secretary of Agriculture administers the program and collects the assessments. First buyers of cotton from producers collect and remit the assessments to the Cotton Board. Producers who do not wish to participate may request a refund of any assessments paid. The collection, remittance and report requirements are set forth in the Cotton Board Rules and Regulations (7 CFR 1205.500 *et. seq.*).

As reflected below, the Department has determined that any upland cotton received as compensation under the payment-in-kind (PIK) program shall be subject to any assessments required in the Act and Order. This will assure that there is no disruption of funding for cotton research and promotion activities.

The Agricultural Stabilization and Conservation Service (ASCS) contract to participate in the 1983 PIK program has the following provision relating to the Cotton Research and Promotion Assessment:

> "The producer agrees that for the purposes of the Cotton Research and Promotion Act (7 U.S.C. 2101-2118) and cotton research and promotion order issued thereunder, any upland cotton made available to a producer as payment-in-kind shall be considered as original production of the 1983 crop and subject to any assessments required by the Act and Order."

The ASCS regulations implementing its Special Program of Payment-in-Kind for Acreage Diversion for 1983 crops of wheat, corn, grain sorghum, upland cotton, and rice were published in the **Federal Register** on January 12, 1983 (48 FR 1476) as an interim final rule and on March 4, 1983 (48 FR 9232) as a final rule.

Revisions: In 7 CFR Part 1205, a new paragraph (n) is added to § 1205.500 which sets forth the definitions for terms used in the Cotton Board rules and regulations. Paragraph (n) will define the term "PIK cotton" as it will be used on forms made available or approved by the Cotton Board and on receipts provided by collecting handlers.

Paragraph (b) of § 1205.514 sets forth certain information which the Cotton Board requires from collecting handlers in monthly reports that accompany the

transmittal of assessments to the Cotton Board. Paragraph (b)(3) is to be amended to provide that for PIK cotton, the name of the county in which the cotton was earned is to substituted for the gin code number of the monthly reports.

Section 1205.515 sets forth certain information each collecting handler must include in a receipt to a producer showing payment of assessments. Paragraph (b) of § 1205.515 is to be amended to provide that the name of the county in which PIK cotton was earned is to be substituted for the gin code number of such receipts. Also, the authority citation for Subpart—Cotton Board Rates and Regulations of Part 1205 is corrected.

List of Subjects in 7 CFR Part 1205

Cotton, Administrative practice and procedure, Research and promotion, Cotton Board, Producer assessments, Producer refunds.

PART 1205—[AMENDED]

Accordingly, Part 1205 of Chapter II, Title 7 of the Code of Federal Regulations is amended as shown.

1. The authority citation for Subpart—Cotton Board Rules and Regulations of Part 1205 is revised to read as follows:

Authority: Sec. 15, 80 Stat. 285; 7 U.S.C. 2114.

2. In § 1205.500, paragraph (n) is added to read as follows:

§ 1205.500 Terms defined.

* * * * *

(n) "PIK cotton" means any upland cotton made available to a producer under the payment-in-kind program (the Agricultural Stabilization and Conservation Service's Special Program of Payment-in-Kind for Acreage Diversion for certain 1983 crops) and shall be considered as original production and subject to any assessments required by the Act and Order.

3. Section 1205.514 would be amended by revising paragraph (b)(3) to read as follows:

§ 1205.514 Remittance to Cotton Board.

* * * * *

(b) * * *

(3) Gin code number or for PIK cotton, county in which PIK cotton was earned.

* * * * *

4. Section 1205.515 would be amended by revising paragraph (b) to read as follows:

§ 1205.515 Receipts for payment of assessments.

* * * * *

(b) Gin code number of gin at which cotton was ginned or county in which PIK cotton was earned.

* * * * *

Dated: October 13, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-28338 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Temporary Alien Employees; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; correction.

SUMMARY: This document corrects an improper citation to a final rule appearing at September 14, 1983 (48 FR 41142) in 8 CFR 214.2(l)(1) without changing the substance of the paragraph relating to intra-company transferees.

EFFECTIVE DATE: October 19, 1983.

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

SUPPLEMENTARY INFORMATION: On September 14, 1983 (48 FR 41142), the Service published a final rule amending the application requirements for admission extension, and maintenance of status for temporary alien employees. This document corrects a typographical error that occurred in a citation in the text to § 214.2(l)(1) on page 41146 in the first column.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this correction is merely editorial in nature.

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

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Authority delegation, Employment, Organization and functions, Passports and visas.

Accordingly, the following correction is made in FR Doc. 83-24980 on page 41146 in the issue of Sepember 14, 1983:

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Corrected]

1. Paragraph (l)(1) *Petition* of § 214.2 is corrected by changing the citation in the first sentence to read 101(a)(15)(L).

(Sec. 214 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1184))

Dated: October 12, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-28412 Filed 10-18-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 5 and 7

[Docket No. 83-46]

Rules, Policies and Procedures for Corporate Activities; Operating Subsidiaries

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is simplifying its process of banks seeking to establish, acquire, or expand the activities of operating subsidiaries. The rule eliminates the requirement that a bank file a formal application. Instead, a notification procedure is established. A bank may establish, acquire, or expand the activities of an operating subsidiary 30 days after the Office receives the bank's notice unless the Office has instructed the bank otherwise. The revised rule benefits national banks and the Office by removing burdensome and costly regulatory requirements, while maintaining the Office's ability to review the legal permissibility of proposed activities for operating subsidiaries.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, Joseph W. Malott, National Bank Examiner/Policy Analyst, Bank Organization and Structure, (202) 447-1184, or Joseph Daly, Attorney, Legal Advisory Services Division, (202) 447-1880, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Background

The Office's Corporate Activities Review and Evaluation (CARE)

Program, described in 45 FR 68586, dated October 15, 1980, involves a comprehensive review of the Office's rules, policies, procedures and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures and forms which are unnecessary or lead to inefficiences; and to remove barrjers to competition. As part of the ongoing program, the Office issued for public comment a proposed rule which amended the current policy for establishing or acquiring operating subsidiaries (12 CFR 5.34). The proposal also eliminated Interpretive Ruling 7.7376 and incorporated its provisions, with some modifications, into the proposed § 5.34. The proposal was published on January 14, 1983 (48 FR 1732).

Summary of Comments

Eighteen comments were received and considered concerning the proposed rule. Seventeen commenters expressed general support for the proposal and one objected. Several issues were raised by those supporting the proposal. These include:

1. One commenter suggested that no notification be required for the conduct of new activities by an existing operating subsidiary; and another commenter suggested that no notification be required for the acquisition of additional offices by an existing operating subsidiary.

The Office's concern with regard to operating subsidiaries is that the activities in which they propose to engage be considered part of the business of banking or incidental thereto. Therefore, the office has always taken the position that its approval of an operating subsidiary extends only to the activities listed in the application. This policy has allowed the Office to review the legality of any new activities in which an existing operating subsidiary proposes to engage. The policy will be continued under the new letter of notification procedure. Any suggestion to the contrary in the proposed rulemaking was unintended. Consequently, the final rule has been amended to clarify this point.

Since the Office is primarily concerned with the legality of the activities engaged in by operating subsidiaries, the acquisition or establishment of additional offices by an existing subsidiary would not require review by this Office if no new activities are involved. However, if the additional office would be a branch within the meaning of 12 U.S.C. 36(f) a branch application would still be required. Furthermore, the acquisition or establishment of a new subsidiary by a bank or a bank's subsidiary would not require review by this Office provided the activities of the new subsidiary are limited to those previously reported by the bank in an application or a letter of intent to establish or acquire a prior operating subsidiary, the establishment or acquisition of the prior subsidiary was considered legally permissible by the office, and the activities in which the new subsidiary will engage continue to be considered permissible by the Office. Section 5.34(d)(1)(iii) is added to the final rule to clarify such a situation.

2. One commenter, noting that the proposed rule required that the parent national bank own 80% of the voting stock of an operating subsidiary, suggested that the rule be changed to permit the 80% ownership to be distributed among subsidiary banks of a bank holding company. If some subsidiary banks are state chartered and some are federally chartered, confusion about applicable laws and about appropriate federal and state supervisory jurisdictions could result from this change. An adequate alternative exists which resolves these problems. A holding company, desiring to distribute among its subsidiary banks the ownership of a corporation engaged in banking-related activities, can do so by forming a bank service corporation. A bank service corporation can engage in many of the same activities as an operating subsidiary. The law governing bank service corporations may be found at 12 U.S.C. 1861 as amended by Section 709 of Pub. L. 97-320, October 15, 1982.

3. One commenter suggested that the rule governing operating subsidiaries provide for public notice and when appropriate, hearings. As noted in the preamble to the proposed rule, national banks could perform the activities of an operating subsidiary within a department of the bank, in which case there would be no prior review by the Office, nor any public notice. If the legal permissibility of an activity proposed to be performed by an operating subsidiary is the subject of controversy, the Office (under 12 CFR 5.2(b)) can require public notice and an opportunity for comment.

4. Two commenters expressed concern over the 30-day period for review of a proposed operating subsidiary's activities.

One suggested that banks be authorized to establish operating subsidiaries immediately after notifying the Office; the other suggested a shorter time period for review of certain predefined clearly permissible activities. It is not the Office's intent to always make banks wait a full 30 days before an operating subsidiary may be acquired, established, or expand its activities. In many cases, the Office anticipates that it will complete its review in considerably less than 30 days. To avoid any confusion with respect to the Office's intent, the provision for requesting a shorter approval period is deleted in the final rule.

Other Issues

The proposed rule provided that the 30-day period would begin on the day the letter of notification is mailed. Transmittal delays or the loss of a letter of notification in the mails may provide the Office with too little time or no time to review a proposal. To assure that notification has been received and that there is no confusion about the date on which the 30-day review period commences, the final rule changes the starting date for the 30-day period to the date the Office receives the letter of notification. In addition, the final rule requires that banks submit their letter of notification by hand or by mail, return receipt requested. In this way, the bank can be certain that its letter was received and on what date. The 30-day review period will commence with the receipt date.

Although the Office is eliminating its application procedure to establish, acquire, or expand the activities of operating subsidiaries, it should be emphasized that such acquisition, establishment, or expansion will be subject to scrutiny since it is subject to the same laws and regulations applicable to the parent bank. For instance, the acquisition or establishment of an operating subsidiary may be subject to the branching restrictions of 12 U.S.C. 36 and 12 CFR 5.30 if it engages in any of the activities enumerated in 12 U.S.C. 36(f), or may be reviewed by other federal agencies responsible for enforcing the antitrust laws.

In merging § 7.7376 into § 5.34, this final rule includes several technical changes to the language in the ruling. Language changes concerning the 80 percent stock ownership requirement are designed solely to simplify the provision and do not reflect changes in substance. A statement in § 7.7376(b) concerning the scope of an operating subsidiary's permissible activities and a list of examples is eliminated because it may be interpreted as limiting the scope of permissible activities to a range

narrower than that currently permitted. Section 7.7376(c) which deals with the applicability of 12 U.S.C. 317c to operating subsidiaries is eliminated as unnecessary due to recent amendments to the statute. A requirement in § 7.7376(d)(4) that the Office be informed of the disposition of all operating subsidiaries is eliminated.

Conforming Amendment

Section 5.3(c)(2)(iii) currently provides certain officials in the OCC district or regional offices with authority to approve or disapprove applications for the establishment of de novo operating subsidiaries performing activities previously approved by the Office for national banks. Under this final rule, however, the Office no longer processes an application for approval or disapproval. Rather, the Office reviews a proposal with respect to its legal permissibility. In addition, the Office desires to minimize the time required for an adequate review of a proposal.

To help meet these objectives, § 5.3 is amended to delegate to the appropriate officials the responsibility for the decision on letters of notification concerning the establishment, acquisition, or expansion of activities by an operating subsidiary provided the subsidiary's proposed activities do not raise significant, new, or complex issues that require review by the Washington Office.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.)*, the Secretary of the Treasury certifies that the amendments to 12 CFR 5.34 will not have a significant economic impact on a substantial number of small entities. The amendments will ease the burden of the existing regulations. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Regulatory Impact Analysis

The Office has determined that the amendments do not constitute a major rule within the meaning of Executive Order 12291. The amendments will ease burdens imposed by regulations and will have no adverse effect on the operations of the depository institutions subject to them. As such, the amendments will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions, and will not have an 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.

List of Subjects

12 CFR Part 5

Administrative practice and procedure, Employee benefit plans, National banks, Securities.

12 CFR Part 7

Credit, Insurance, Investments, Mortgages, National banks, Securities, Surety bonds.

Authority and Issuance

For the reasons given in the preamble, 12 CFR Parts 5 and 7 are amended as follows:

PART 5—[AMENDED]

1. The authority citation for 12 CFR Part 5 reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. Section 5.3 is amended by revising paragraph (c)(2)(iii) to read as follows:

§ 5.3 Corporate activities processing and delegations.

* * * * *

(c)(2)* * *

(iii) A letter of notification submitted for the establishment or acquisition of, or performance of new activities by, an operating subsidiary provided that the letter does not raise any significant, new, or complex issues that require review by the Washington Office.

3. Section 5.34 is revised to read as follows:

§ 5.34 Operating subsidiaries.

(a) *Authority.* 12 U.S.C. 1 *et seq.*, 24 (7), 93a.

(b) *Rules of general applicability.* Sections 5.4, 5.8, 5.9, 5.10 and 5.11 do not apply to operating subsidiaries.

(c) *General.* A national bank may engage in activities which are a part of or incidental to the business of banking by means of an operating subsidiary corporation. In order to qualify as an operating subsidiary, the parent bank must own at least 80 percent of the voting stock of the corporation.

(d) *Policy.* The Office considers establishment or acquisition of an operating subsidiary or performance of new activities by an operating subsidiary to be primarily a business decision of the bank subject to the following requirements.

(1) *Notification.* (i) A national bank which intends to acquire, establish or perform new activities in an operating subsidiary shall submit a letter to the Deputy Comptroller for the district in which the bank's principal office is located. The letter must detail the proposed activities of the operating subsidiary and state whether any activity of the operating subsidiary will be conducted at some location other than the main office or a previously approved branch of the bank. Letters of notification must be hand delivered or mailed, return receipt requested, to the district office in which the principal office of the bank is located.

(ii) The bank may establish, acquire, or perform new activities in an operating subsidiary after 30 days from the date the Office receives the bank's letter, unless notified to the contrary, or in less than 30 days if notified by the Office. The Office will utilize the 30 day period to review the bank's proposal to determine if the proposed activities exceed those legally permissible for a national bank operating subsidiary. The 30 day period may be extended upon notice to the bank if the bank's letter raises issues that require additional information or time for analysis by the Office. If the 30-day period is extended, the bank may establish, acquire, or perform new activities in the operating subsidiary only upon written notification by the Office.

(iii) A bank may establish or acquire an operating subsidiary without notifying the Office provided: (A) The activities of the new subsidiary are limited to those activities previously reported by the bank in connection with the establishment or acquisition of a prior operating subsidiary; (B) the establishment or acquisition of the prior subsidiary was considered permissible by the Office; and (C) the activities in which the new subsidiary will engage continue to be considered legally permissible by the Office.

(2) *Applicability of banking laws and regulations*—(i) *Banking laws and regulations applicable.* Unless otherwise provided by statute or regulation, all provisions of Federal banking laws and regulations applicable to the operations of the parent bank shall be equally applicable to the operations of its operating subsidiaries.

(ii) *Consolidation of figures.* Unless otherwise provided by statute or regulation, pertinent book figures of the parent bank and its operating subsidiaries shall be consolidated for the purpose of applying applicable statutory limitations, such as 12 U.S.C. 56, 60, 84, or 371d.

Example. The combined exposures of the parent bank and all of its operating

subsidiaries to a single borrower shall not exceed the bank's loan limit (12 U.S.C. 84).

(3) *Examination and supervision.* Each operating subsidiary shall be subject to examination and supervision by the Office of the Comptroller of the Currency in the same manner and to the same extent as the parent bank. If, upon examination, the Comptroller of the Currency ascertains that the subsidiary is created or operated in violation of law or regulation or that the manner of operation is unsafe or unsound, the Office will direct the bank to take appropriate remedial action, which may include disposing of all or part of the subsidiary.

(e) *Fees.* None.

(f) *Forms.* None.

(Approval by the Office of Management and Budget under control number 1557-0148.)

PART 7—[AMENDED]

4. The authority citation for *Part 7—Interpretive Rulings*—reads as follows:

Authority: R.S. 324 *et seq.*, as amended 12 U.S.C. 1*et seq.*, unless otherwise noted.

§ 7.7376 [Removed]

5. Section 7.7376 is removed.

Dated: September 15, 1983.

C. T. Conver,

Comptroller of the Currency.

[FR Doc. 83-28410 Filed 10-18-83; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 83-566]

Accounting For Uncollected Income

Dated: October 13, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its regulations on accounting for uncollected income by institutions using the accrual basis of accounting to prepare financial statements and reports to the Federal Savings and Loan Insurance Corporation. Current regulations require that all earned but uncollected interest on conventional loans be classified as uncollectible if any portion is due but uncollected for more than 90 days. The revision will provide greater flexibility on the part of management to determine when earned but uncollected income on conventional loans should be classified as uncollectible.

EFFECTIVE DATE: October 26, 1983.

FOR FURTHER INFORMATION CONTACT: James Satterfield, (202) 377-6399, Financial Analyst, Office of Examination and Supervision; or Gerard J. Champagne, (202) 377-6177, Attorney, Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Reports required by the Federal Savings and Loan Insurance Corporation ("FSLIC") are prepared on the basis of generally accepted accounting principles, unless specific principles or procedures on particular accounting or reporting matters are otherwise specified by regulation. 12 CFR 563.23-3 (1983).

Section 563c.11 of the Board's Insurance Regulations provides accounting rules for uncollected income for institutions submitting financial statements and reports to the FSLIC. 12 CFR 563c.11 (1983). Specifically, an institution is required to review, at least quarterly, all earned but uncollected income to determine if any portion thereof should be classified as uncollectible.

Generally accepted accounting principles, as articulated by the American Institute of Certified Public Accountants, provide that the recording of interest should be discontinued when payments of principle or interest are past due, the borrower is in default under the terms of the loan agreement, or certain other factors exist. See Statement of Position 75-2, Accounting Practices of Real Estate Investment Trusts (1975). The Board has previously established specific additional standards in this area for determining the collectibility of income. 12 CFR 563c.11(b).

With respect to earned but uncollected interest on conventional loans, an institution is required to classify as uncollectible all loan income which is due but uncollected for a period in excess of 90 days (the "90-day rule"). 12 CFR 563c.11(b). "Conventional loan" is defined in § 563c.11(d) as any investment by an insured institution in any loan, contract, or similar investment which is not an insured loan, a guaranteed loan or a guaranteed obligation, as those terms are defined in 12 CFR 561.20, 561.21, and 561.21a, respectively. Additionally, all earned but uncollected interest on conventional loans must be classified as uncollectible if the institution has commenced legal action to acquire title, secure possession of the underlying security, or enforce performance by the borrower, or if a determination has been made that the loan is uncollectible due to substantial or chronic delinquency or for any other material reason.

The 90-day rule provides management, accountants, and Board examiners with uniform standards to evaluate uncollected interest income on an industry-wide basis. The rule also assists in the analysis of loan portfolio quality and association collection policy. In addition, the 90-day rule prevents overstatement of income through long-term accrual of uncollected interest, which would undermine the integrity of financial statements and reports.

The 90-day rule has, however, been subject to criticism by insured institutions and industry representatives. Critics contend that the rule allows no provision for management determination of collectibility. In particular, it has been argued that the rule provides no flexibility in those instances in which the market value of the real estate collateral far exceeds the existing loan balance plus uncollected interest, a problem which is especially acute in areas of high unemployment. Although management may be inclined to grant forebearance because of the sufficiency of collateral securing the loan and the adverse impact of immediate collection efforts upon customer and community relations, the inflexibility of the 90-day rule may unduly affect the decision-making process.

Accordingly, the Board is amending the 90-day rule to allow greater latitude on the part of institutional management in determining the collectibility of earned but uncollected interest upon consideration of relevant mitigating factors. The amendment will specifically exclude from the 90-day rule conventional loans secured by one-to-four-family residential real estate if sufficient equity in the underlying collateral exists (i.e., if the loan balance plus accrued but uncollected interest does not exceed 90 percent of the appraised value of the security property), active collection efforts are being made, and there is a reasonable expectation of collection of delinquent interest. The amendment is intended to provide institutional managers with the necessary flexibility to review each delinquent loan individually and to allow relief from the necessity of establishing reserves if sufficient mitigating factors exist, while continuing to protect the ability of Board examiners to assess the loan portfolio quality and institution collection policy contained in the quarterly review report.

The Board finds that observance of the notice and comment procedures prescribed by 5 U.S.C. 553(d) and 12 CFR 508.12, 508.13, and delay of the

effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14, are unnecessary because the amendment relieves a restriction and it is in the public interest to allow institutional flexibility in the review of delinquent loans.

List of Subjects in 12 CFR Part 563

Accounting requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board amends Part 563 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563c—ACCOUNTING REQUIREMENTS

Revise paragraph (b) of § 563c.11 as follows:

§ 563c.11 Accounting for uncollectible income.

* * * * *

(b) *Uncollectible interest on loans.* In determining the uncollectibility of income on loans, contracts, and similar investments, an insured institution shall employ generally accepted accounting principles. However, as a minimum, the following shall be classified as uncollectible:

(1) All earned but uncollected interest on a conventional loan if any portion thereof is due but uncollected for a period in excess of 90 days, unless:

(i) The collecteral securing such loan is a home as defined in § 541.14 of this chapter;

(ii) The amount of all loan balances secured by the home, plus accrued but uncollected interest, does not exceed 90 percent of the appraised value of the security property;

(iii) Active collection efforts are being made; and

(iv) There is a reasonable expectation of delinquent-interest collection.

(2) All earned but uncollected interest on a conventional loan on which an institution has commenced legal action to acquire title to or secure possession of the underlying security or to enforce performance by the borrower;

(3) All earned but uncollected interest on a conventional loan which, because of substantial or chronic delinquency or any other material reason, is of doubtful collectibility; and

(4) Earned but uncollected interest on loans other than conventional loans, classified on the same basis as conventional loans after allowance for any interest which may be expected to be received in connection with any existing insurance or guaranty.

* * * * *

(Secs. 401–404, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-28473 Filed 10-18-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 184 and 186

[Docket No. 79N-0174]

GRAS Substances Affirmed for Both Direct and Indirect Uses; Procedure for Listing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its procedural regulations to make clear that the agency will no longer list in Part 186 the indirect uses of substances that it has affirmed as generally recognized as safe (GRAS) for direct use in Part 184. This action will eliminate needless duplication in FDA's regulations. This amendment also clarifies FDA's requirements concerning the purity of GRAS substances used as indirect food ingredients.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Susan Thompson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 1982 (47 FR 27817), FDA published a proposal to amend its procedural regulations for affirming substances as GRAS. The agency proposed to amend §§ 184.1(a) and 186.1(a) (21 CFR 184.1(a) and 186.1(a)) to make clear that FDA would no longer list in Part 186 those substances that it has affirmed as GRAS for direct food use in Part 184; to remove from Part 186 those ingredients that are affirmed for indirect use by virtue of the fact that they are listed in Part 184; and to clarify FDA's requirements concerning the purity of GRAS substances used as indirect food ingredients.

The agency received one comment from a trade association in response to the proposal. The comment agreed with FDA's proposed action but recommended a revision in the wording of the third sentence of § 184.1(a). The comment recommended that this sentence be revised to read: "Ingredients affirmed as GRAS in this part are deemed to be GRAS for indirect human food use (e.g., food packaging) as well, and may be so used subject to any limitations * * *." The comment suggested that the revised wording clarifies the intent of the statement.

The agency agrees that the wording of this sentence should be revised. In the preamble to the proposal, the agency made clear that substances affirmed as GRAS for direct food use were also GRAS for indirect food use. The agency is therefore adopting this part of the comment's recommendation. However, the agency concludes that any reference to a specific type of indirect food use, as suggested in the comment, is unnecessary and could be confusing. Therefore, the agency has revised the third sentence in § 184.1(a) to read: "Ingredients affirmed as GRAS in this part are also GRAS as indirect human food ingredients, subject to any limitations * * *." The agency has also incorporated this change in the third sentence in § 186.1(a).

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency determined that the rule is not a major rule as defined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small

entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 184

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

21 CFR Part 186

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under 21 CFR 5.11, Parts 184 and 186 are amended as follows:

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

1. Part 184 is amended in § 184.1 by revising paragraph (a), to read as follows:

§ 184.1 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

(a) The direct human food ingredients listed in this part have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed. The regulations in this part shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS. Ingredients affirmed as GRAS in this part are also GRAS as indirect human food ingredients, subject to any limitations prescribed in Parts 174, 175, 176, 177, 178 or § 179.45 of this chapter of in Part 186 of this chapter. The purity specifications in this part do not apply when the ingredient is used in indirect applications. However, when used in indirect applications, the ingredient must be of a purity suitable for its intended use in accordance with § 170.30(h)(1) of this chapter.

* * * * *

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 186 is amended:

a. In § 186.1 by revising the section heading and paragraph (a), to read as follows:

§ 186.1 Substances added indirectly to human food affirmed as generally recognized as safe (GRAS).

(a) The indirect human food ingredients listed in this part have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed, providing they comply with the purity specifications listed in this part or, in the absence of purity specifications, are of a purity suitable for their intended use in accordance with § 170.30(h)(1) of this chapter. Certain ingredients in this part may also be used in food-contact surfaces in accordance with Parts 174, 175, 176, 177, 178 or § 179.45 of this chapter. Ingredients affirmed as GRAS for direct use in Part 184 of this chapter are also GRAS as indirect human food ingredients in accordance with § 184.1(a) of this chapter.

* * * * *

§ 186.1275 [Amended]

b. In § 186.1275 *Dextrans* by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as (b), (c), and (d), respectively.

§§ 186.1330, 186.1339, 186.1343, 186.1807 [Removed]

c. By removing § 186.1330 *Acacia (gum arabic)*, § 186.1339 *Guar gum (technical grade)*, § 186.1343 *Locust (carob) bean gum*, and § 186.1807 *Sodium thiosulfate*.

§ 186.1839 [Amended]

d. In § 186.1839 *Sorbose* by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as (b), (c), and (d), respectively.

Effective date. This regulation shall be effective November 18, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: September 26, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-28407 Filed 10-18-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 184 and 186

[Docket No. 82N-0120]

Substances Generally Recognized as Safe

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations on substances that the agency has affirmed as generally recognized as safe (GRAS). The agency is amending its regulations to incorporate the general conditions of current good manufacturing practice (CGMP) for substances affirmed as GRAS, to eliminate the requirement that a GRAS affirmation regulation contain explicit details of the conditions of use that are affirmed as GRAS, and to make editorial and clarifying changes.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA published a proposal to amend its procedural regulations on the GRAS review in §§ 184.1 (b), (b)(1), and (c) and 186.1 (b), (b)(1), (c), and (d) (21 CFR 184.1 (b), (b)(1), and (c) and 186.1 (b), (b)(1), (c) and (d)). The agency proposed to incorporate into §§ 184.1(b) and 186.1(b) a list of the basic requirements of CGMP. In addition, FDA proposed to amend §§ 184.1(b)(1) and 186.1(b)(1) to make clear the agency's intent to include in GRAS affirmation regulations a description of only those CGMP conditions of use that the agency determines are necessary to ensure the continued safe use of the ingredient in food or food-contact materials. Finally, the agency proposed to make minor editorial changes in §§ 184.1(c) and 186.1 (c) and (d).

FDA received six comments from food manufacturers or suppliers and five comments from trade associations in response to the proposal. Five of these comments indicated support for the proposal without any changes. However, six comments made specific recommendations for changes in the proposal or recommendations for other changes in GRAS regulations. These comments and the agency's responses are summarized below:

1. Three comments requested that regulations for substances affirmed as GRAS under conditions of CGMP not include a description of any CGMP conditions of use. The comments argued that inclusion of any levels of use, food categories, or technical effects was inconsistent with the Select Committee's and FDA's evaluation "that there is no evidence to suggest a hazard when the ingredient is used in food at levels that

are now current or might reasonably be expected in the future." The comments also stated that inclusion of any conditions of use in GRAS affirmation regulations may unnecessarily impede food manufacturers from using a GRAS substance under different conditions in the future. The comments further indicated that submission of a GRAS affirmation petition for expanded food uses would place an unnecessary burden on the industry, because this process may require that additional data be submitted and would require that the industry await FDA's review of the petition. One comment concluded that inclusion of conditions of use in GRAS affirmation regulations was akin to converting freely available GRAS substances to food additive status.

FDA has considered, but disagrees with, these comments. The comments do not provide any new information that addresses the concerns, or any basis for changing the tentative conclusions, that the agency discussed in the proposal.

An agency decision to describe one or more of the conditions of use of a substance in a GRAS affirmation regulation is perfectly consistent with the evaluation of the safety of the substance embodied in that regulation. The purpose of a GRAS affirmation regulation is to describe the ingredient and the uses of that ingredient in food that FDA is affirming as GRAS. FDA has found, based on its years of experience with the GRAS review, that such a description need not include CGMP conditions of use (technical effects, food categories, and levels of use) for every substance. The agency has determined that a GRAS affirmation regulation should only include those CGMP conditions of use that are necessary to ensure the continued safe use of the ingredient. FDA considers several factors in deciding which conditions of use are necessary to achieve this purpose, including: (1) The amount (total poundage) and the extent of the use of the ingredient in food; (2) the magnitude of the safety factor that exists for the ingredient; and (3) whether the use of the ingredient in food is self-limiting. Some substances have been so widely and so safely used that the agency can conclude that it is not necessary to include specific CGMP conditions of use in the GRAS affirmation regulations to assure their continued safe use. Other substances, however, have been used much more narrowly. These substances have been used safely for a small number of technical effects, in a few food categories, or at low levels. Although the agency can conclude, based on the data before it, that continued use of these substances under the same or reasonably related conditions of use will be safe, it is unable to determine whether use of these substances will be safe if they are used in a significantly different manner. For these substances, FDA will include one or more conditions of use in the GRAS affirmation regulations to provide a basis on which the food industry can assess whether expanded future uses of the substance will be compatible with the agency's safety evaluation and to discourage any potentially unsafe proliferation in the use of these substances. Thus, the agency finds that the continued inclusion of conditions of use is justified.

FDA also rejects the claim that inclusion of conditions of use in GRAS affirmation regulations will unnecessarily impede or place an unnecessary burden on industry. The agency adopts GRAS affirmation regulations with conditions of use only after interested persons have had an opportunity to review and comment on them. An interested person may file a petition to expand the conditions of use listed in a regulation to reflect new uses of the ingredient at any time. The agency is able to respond promptly to most of these petitions because of the comprehensive files on GRAS substances that the agency has compiled as part of the GRAS review. In addition, the existence of a GRAS affirmation regulation that contains conditions of use does not bar a manufacturer from expanding the use of a GRAS ingredient beyond the conditions described in the regulation if the manufacturer makes its own GRAS determination. For this reason, GRAS regulations are different from food additive regulations, which set forth the only permissible uses of a substance in food.

The agency concludes that the comments do not establish any basis for removing all CGMP conditions of use from all GRAS regulations. Therefore, the agency has not modified its final rule in response to these comments.

2. Two comments from bakery suppliers requested that all GRAS affirmation regulations uniformly indicate that CGMP levels of use are levels that are applicable to foods as prepared for consumption. The comments acknowledged that most GRAS affirmation regulations containing CGMP levels of use refer to such levels on an as served basis but noted that an exception is found in the regulations for benzoic acid (21 CFR 184.1021), calcium iodate (21 CFR 184.1206), methylparaben (21 CFR 184.1490), propylparaben (21 CFR 184.1670), sodium benzoate (21 CFR 184.1733), and bakers yeast extract (21 CFR 184.1983). The comments indicated that these variations in GRAS affirmation regulations are confusing to bakery suppliers that produce bulk or intermediate food products for use by bakeries or other food processors.

FDA has reviewed the GRAS affirmation regulations identified in these comments and finds that there is no need to change the cited regulations. With the exception of the regulations on calcium iodate (21 CFR 184.1206), these regulations identify a maximum usage level in food. The agency concludes that such maximum usage levels are applicable to the food as served.

The regulation for calcium iodate (21 CFR 184.1206) specifies that the use of calcium iodate as a dough strengthener in making bread is not to exceed 0.0075 percent of the weight of the flour. The regulation is writtern this way to be consistent with the applicable food standared (21 CFR 136.110). FDA also notes that this substance is different than the others mentioned in the comment because the agency affirmed this substance as GRAS with specific limitations and not under CGMP.

3. One comment suggested that the agency modify § 184.1(d) to exempt flavor enhancers and flavoring agents and adjuvants from this section. Section 184.1(d) states that "[t]he listing of more than one ingredient to produce the same technological effect does not authorize use of a combination of two or more ingredients to accomplish the same technological effect in any one food at a combined level greater than the highest level permitted for one of the ingredients." The comment suggested that flavor substances should be exempt from this section, regardless of whether one or more of the flavoring materials used has a limitation based upon safety considerations.

The agency advises that modification of § 184.1(d) was not included in the proposal and is beyond the scope of this final rule. Therefore, the agency has not modified its final rule in response to this comment. A petition may be submitted under § 10.30 (21 CFR 10.30) to request the agency to modify § 184.1(d). The petition should state clearly the requested change in § 184.1(d) and should contain convincing evidence to show that use of ingredients in food in a manner that is consistent with the requested change would constitute current good manufacturing practice.

In summary, FDA did not receive any comments that presented information that warrants a change in the regulations that the agency proposed.

FDA is therefore adopting the proposed regulations with minor editorial changes. For clarity, FDA has modified §§ 184.1(b)(1) and 186.1(b)(1) to state that persons who seek to use an ingredient for a use that is not described in a GRAS regulation may seek FDA approval of the use by submitting a GRAS petition.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 184

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

21 CFR Part 186

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under 21 CFR 5.11, Parts 184 and 186 are amended as follows:

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

1. In Part 184, § 184.1 is amended by revising the introductory text of paragraph (b) and revising paragraphs (b)(1) and (c), to read as follows:

§ 184.1 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(b) Any ingredient affirmed as GRAS in this Part shall be used in accordance with current good manufacturing practice. For the purpose of this Part, current good manufacturing practice includes the requirements that a direct human food ingredient be of appropriate food grade; that it be prepared and handled as a food ingredient; and that the quantity of the ingredient added to food does not exceed the amount reasonably required to accomplish the intended physical, nutritional, or other technical effect in food.

(1) If the ingredient is affirmed as GRAS with no limitations on its conditions of use other than current good manufacturing practice, it shall be regarded as GRAS if its conditions of use are consistent with the requirements of paragraph (b), (c), and (d) of this section. When the Food and Drug Administration (FDA) determines that it is appropriate, the agency will describe one or more current good manufacturing practice conditions of use in the regulation that affirms the GRAS status of the ingredient. For example, when the safety of an ingredient has been evaluated on the basis of limited conditions of use, the agency will describe in the regulation that affirms the GRAS status of the ingredient, one or more of these limited conditions of use, which may include the category of food(s), the technical effect(s) or functional use(s) of the ingredient, and the level(s) of use. If the ingredient is used under conditions that are significantly different from those described in the regulation, that use of the ingredient may not be GRAS. In such a case, a manufacturer may not rely on the regulation as authorizing that use but shall independently establish that that use is GRAS or shall use the ingredient in accordance with a food additive regulation. Persons seeking FDA approval of an independent determination that a use of an ingredient is GRAS may submit a GRAS petition in accordance with § 170.35 of this chapter.

* * * * *

(c) The listing of a food ingredient in this Part does not authorize the use of such substance in a manner that may lead to deception of the consumer or to any other violation of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 186, § 186.1 is amended by revising the introductory text of paragraph (b) and revising paragraphs (b)(1), (c), and (d), to read as follows:

§ 186.1 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).

* * * * *

(b) The regulations in this Part do not authorize direct addition of any food ingredient to a food. They authorize only the use of these ingredients as indirect ingredients of food, through migration from their immediate wrapper, container, or other food-contact surface. Any ingredient affirmed as GRAS in this Part shall be used in accordance with current good manufacturing practice. For the purpose of this Part, current good manufacturing practice includes the requirements that an indirect human food ingredient be of a purity suitable for its intended use, and that it be used at a level no higher than reasonably required to achieve its intended technical effect in the food-contact article.

(1) If the ingredient is affirmed as GRAS with no limitations on its conditions of use other than current good manufacturing practice, it shall be regarded as GRAS if its conditions of use are consistent with the requirements of paragraphs (b), (c), and (d) of this section. When the Food and Drug Administration (FDA) determines that it is appropriate, the agency will describe one or more current good manufacturing practice conditions of use in the regulation that affirms the GRAS status of the indirect ingredient. For example, when the safety of an ingredient has been evaluated on the basis of limited conditions of use, the agency will describe in the regulation that affirms the GRAS status of the indirect ingredient, one or more of these limited conditions of use, which may include the category of food-contact surface(s), technical effect(s) or functional use(s) of the indirect ingredient, and the level(s) of use. If the ingredient is used under conditions that are significantly different from those described in the regulation, such use of a substance may not be GRAS. In such a case, a

manufacturer may not rely on the regulation as authorizing that use but shall independently establish that the use is GRAS or shall use the ingredient in accordance with a food additive regulation. Persons seeking FDA approval of an independent determination that a use of an ingredient is GRAS may submit a GRAS petition in accordance with § 170.35 of this chapter.

* * * * *

(c) The listing of a food ingredient in this Part does not authorize the use of such substance for the purpose of adding the ingredient to the food through extraction from the food-contact surface.

(d) The listing of a food ingredient in this Part does not authorize the use of such substance in a manner that may lead to deception to the consumer or to any other violation of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

Effective date. This regulation shall be effective November 18, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: September 26, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-28406 Filed 10-18-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

31 CFR Part 1

Privacy Act of 1974; Exemption of Systems of Records from Certain Requirements.

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Comptroller of the Currency gives notice of an amendment to 31 CFR 1.36. This amendment (1) changes the name of the system, Treasury/CC .013, from "Information File on Individuals and Commercial Entities Known or Suspected of Being Involved in Fraudulent Activities" to "Enforcement and Compliance Information System"; (2) exempts a new system of records from the application of certain parts of the Privacy Act in accordance with 31 CFR 1.23(c) and 1.36; and (3) clarifies the Comptroller of the Currency's existing notice of rules exempting certain systems of records from the requirements of the Privacy Act of 1974. The Comptroller of the Currency portion of § 1.36 is being revised and published in its entirety since these provisions extensively change the language presently used. The Comptroller filed a new system report with the Office of Management and Budget, the Speaker of the House of Representatives and the President of the Senate. A proposed notice exempting the system was published in the **Federal Register** at 47 FR 51890 (1982).

DATES: The final rule is effective November 18, 1983.

ADDRESS: Chief Counsel's Office, Office of the Comptroller of the Currency, Washington, D.C. 20219

FOR FURTHER INFORMATION CONTACT: Francis S. Rath, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: On March 15, 1979, the Comptroller of the Currency published a notice of proposed rulemaking at 44 FR 15734 together with a systems notice at 44 FR 15824. The purpose was to revise an existing exempt system of records and to change the name of that system. The revised systems notice gave a 30-day public comment period and became effective when no comments were received by the end of that period. The proposed rule reflected the system notice by amending the existing rule at 31 CFR 1.36. However, the rule covering the system was not finalized and, therefore, the name was not changed. This document, in part, revises the rule at 31 CFR 1.36 to reflect that system's name change.

On November 18, 1982, the Comptroller of the Currency published a notice of a proposed new Privacy Act system of records at 47 FR 51995. In addition, the Comptroller of the Currency published on the same date at 47 FR 51890 a proposed rule exempting the new system from the requirements of the Privacy Act of 1974 and changing the name of an existing system. The new system of records became effective on December 20, 1982, since no comments were received concerning the system.

One comment was received regarding the proposed rule in response to which paragraph (f) of the proposed rule, relating to exempt information included in another system, is deleted. Therefore, paragraph (g) of the proposed rule has been relettered as paragraph (f).

Due to an oversight, the section addressing the requirements of the Regulatory Flexibility Act and Executive Order 12291 was inadvertently omitted in the proposed rule. Those requirements are addressed below.

Regulatory Flexibility Act

The Secretary of the Treasury has certified that this regulation is exempt from the requirement of preparing a regulatory flexibility analysis because it will not have a significant economic impact on a substantial number of small entities. This regulation would exempt three systems of records from the Privacy Act: (1) Enforcement and Compliance Information; (2) Federal Bureau of Investigation Report Card Index; and (3) Chief Counsel's Management Information System. Because the regulation affects only internal agency administration, those exemptions are not expected to generate any costs for banks of any size or for individuals.

Executive Order 12291

The Comptroller of the Currency has determined that the regulation does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a regulatory impact analysis will not be prepared on the grounds that the revision (1) will not have an annual effect on the economy of $100 million or more; (2) will not result in a major increase in the cost of bank operations or government supervision; and (3) will not have a significant adverse effect on competition with foreign-based entities.

List of Subjects in 31 CFR Part 1

Privacy.

Accordingly, 31 CFR Part 1 is amended as set forth below:

PART 1—[AMENDED]

1. The authority for Part 1 reads as follows:

Authority: 5 U.S.C. 301, 552, as amended.

2. Section 1.36 is amended by revising the Comptroller of the Currency portion to read as follows:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

* * * * *

Comptroller of the Currency

Notice of Rules Exempting Certain Systems of Records From the Requirements of the Privacy Act

(a) *In General.* The Office of the Comptroller of the Currency exempts the following systems of records from certain provisions of the Privacy Act: (1)

Enforcement and Compliance Information; (2) Federal Bureau of Investigation Report Card index; (3) Chief Counsel's Management Information System. The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executively-ordered purpose.

(b) *Authority.* The authority to issue exemptions is vested in the Office of the Comptroller of the Currency, as a constituent unit of the Treasury Department, by 31 CFR 1.20 and 1.23(c).

(c) *Exemptions under 5 U.S.C. 552a(j)(2).* (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Components of the Office of the Comptroller of the Currency are involved in the investigation of fraudulent or other illegal activities as well as other sensitive matters, in order to carry out their bank supervisory function. Exemptions will be claimed for such records only where appropriate.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named systems of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for certain records in the systems. Exemptions will be claimed for such records only where appropriate.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)
5 U.S.C. 552a(d)(1), (2), (3), (4)
5 U.S.C. 552a(e)(1), (2), and (3)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2).* (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled or law enforcement purposes.

(2) To the extent that information contained in the above-named systems has as its principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2).* (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are the subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f), and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the content of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. These systems are exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could: interfere with investigative and enforcement proceedings; interfere with co-defendants' rights to a fair trial; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; or disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

(i) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance can be established.

(iii) In any investigation the Comptroller of the Currency may obtain information concerning violations of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Comptroller of the Currency should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(iv) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relates to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of the provision would impair investigations for the following reasons:

(i) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

(ii) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(iii) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities in order to avoid apprehension.

(iv) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

(6)(i) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(A) The authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

(B) The purposes for which the information is intended to be used,

(C) The routine uses which may be made of the information, and

(D) The effects on the subject, if any, of not providing the requested information.

(ii) The reasons for exempting these systems of records from the foregoing provision are as follows:

(A) the disclosure to the subject of the investigation as stated in paragraph (e)(6)(i)(B) would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(B) If the subject were informed as required by this provision, it could seriously interfere with information-gathering activities by requiring disclosure of sources of information and, therefore, impairing the successful conclusion of the investigation.

(C) Individuals may be contacted during preliminary information-gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed in a logical order which objectively proves or disproves suspected behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing investigation to the subject of the investigation.

(f) *Documents exempted.* Exemption will be claimed for certain records only where appropriate under the above provisions.

* * * * *

Dated: September 21, 1983.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 83-28295 Filed 10-18-83; 8:45 am]

BILLING CODE 4810-35-M

GENERAL SERVICES ADMINISTRATION

41 CFR Chap. 1

[FPR Temp. Reg. 75]

Procedures for Publicizing Proposed Procurements and Processing Noncompetitive Procurements

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This FPR Temporary Regulation revises Commerce Business Daily publicizing, bidding time, and noncompetitive contract processing and approval requirements. The basis for the regulation is Pub. L. 98-72 which amended section 8(e) of the Small Business Act. The intended effect of the revisions is to bring existing regulations into conformance with the law, thereby improving small business access to Federal procurement information.

DATES:

Date effective	Section
Oct. 19, 1983	§§ 1-1.1003-6(c); 1-3.101 (d), (e), and (f); 1-3.107 (b)(3), (b)(4), (c) and (d); and 1-4.910(c).
Nov. 9, 1983	§§ 1-1.307-4(a); 1-1.1003-2 (a), (b), (c) and (d); 1-1003-6, (a), and (b); 1-1.1003-7 (b)(3), (b)(7) and (b)(12); 1-1.1004; 1-2.202-1 (b) and (c); 1-3.103(a); 1-3.108(e); and 1-4.904(a).

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Frank T. Van Lierde, Office of Acquisition Policy (202-523-4768).

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

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

General Services Administration

Washington, D.C. 20405

October 12, 1983.

Federal Procurement Regulations; Temporary Regulation 75

To: Heads of Federal agencies.

Subject: Procedures for publicizing proposed procurements and processing noncompetitive procurements.

1. *Purpose.* This temporary regulation implements Pub. L. 98-72, August 11, 1983.

2. *Effective dates.*

Date effective	Section
Oct. 19, 1983	§§1-1.1003-6(c); 1-3.101 (d), (e) and (f); 1-3.107 (b)(3), (b)(4), (c) and (d); and 1-4.910(c).
Nov. 9, 1983	§§ 1-1.307-4(a); 1-1.1003-2 (a), (b), (c) and (d); 1-1003-6, (a), and (b); 1-1.1003-7 (b)(3), (b)(7) and (b)(12); 1-1.1004; 1-2.202-1 (b) and (c); 1-3.103(a); 1-3.108(e); and 1-4.904(a).

3. *Expiration date.* This regulation expires on September 30, 1985.

4. *Background.*

a. Pub. L. 98-72 amended section 8(e) of the Small Business Act (15 U.S.C. 637) to improve small business access to procurement information and increase competition by making it harder for agencies to award sole-source contracts. The following major revisions were made to the Small Business Act:

(1) The threshold for publicizing proposed civilian agency procurement actions in the Commerce Business Daily (CBD) was increased from $5,000 to $10,000.

(2) The exemptions to the CBD publicizing requirement were modified in the following areas:

(i) Foreign procurements.

(ii) Utility services.

(iii) Orders under existing contracts.

(iv) Personal or professional services. (This exemption was eliminated.)

(v) Services from educational institutions. (This exemption was eliminated and replaced with one dealing with proposals under the Small Business Innovation Development Act of 1982 and unsolicited proposals.)

(vi) Emergency procurements. (This exemption was modified to tie it into new publicizing and response time requirements.)

Note.—The details of new exemptions may be found in revised § 1–1.1003–2 set forth in paragraph 5.b.

(3) If notice of the procurement for a sole-source contract (see revised § 1–1.1003–2(c) for definition) must be published, an agency may not commence negotiations for award of such a contract until at least 30 days have elapsed from the date of publication of proper notice of intent to contract. However, agencies are specifically authorized to respond to requests for information during the 30-day time period.

(4) A prohibition is imposed against agencies commencing negotiations for sole-source contracts or contracts that result from unsolicited proposals (except under the 8(a) and Small Business Innovation Research programs) above a threshold amount unless the head of the procuring activity or his deputy, on a nondelegable basis, has approved the authority to enter into such contract and the contracting officer has evaluated the responses to the notice of procurement action. The act provides for a three-year phase-in of decreasing dollar thresholds at which these provisions will apply and requires instances of noncompliance to be reported to the Congress (see new §§ 1–3.101 (e) and (f) set forth in paragraph 5.g.).

(5) Publication of a notice in the CBD is required for awards of all unclassified contracts in excess of $25,000, in which the award of subcontracts is likely.

(6) Agencies are prohibited from issuing a solicitation for at least 15 days (30 days for research and development effort) after the date of publication of a proper notice of the proposed procurement in the CBD. Agencies are also prohibited from foreclosing competition for the procurement for an additional 30 days after either the issuance of the solicitation, or in the case of orders under a basic agreement, basic ordering agreement, or similar arrangement, the date of a notice of intent to place the order.

b. Two separate effective dates were included in Pub. L. 98–72. An October 1, 1983, effective date was established for revised section 8(e)(4) of the act which deals with the approval of sole-source contracts and evaluation of responses to notices of intent to contract on a sole-source basis. The remaining provisions of the act were made effective November 9, 1983. Accordingly, it was necessary to establish separate effective dates for the regulatory implementation of the separate parts of the act (see paragraph 2 above).

c. On the basis of initial experience with the implementation of FPR Amendment 230, several changes were made to the noncompetitive procurement justification requirements of the FPR. Specifically, a number of new exceptions were added to the requirement for preparing written noncompetitive procurement justifications to eliminate the need to prepare the justifications where they serve no useful purpose. Other revisions were made to accommodate the new exceptions.

5. *Explanation of changes.*

a. Section 1–1.307–4 is amended to provide in paragraph (a) the basis on which less than 30 days may be allowed between the issuance of solicitations and the opening of bids. As amended, paragraph (a) reads as follows:

§ 1–1.307–4 Brand name products or equal.

(a) Purchase descriptions which refer to one or more brand name products followed by the words "or equal" may be used only in accordance with this § 1–1.307–4 and §§ 1–1.307–5 through 1–1.307–9. The term "brand name product" means a commercial product described by brand name and make or model number or other appropriate nomenclature by which that product is offered for sale to the public by the particular manufacturer, producer, or distributor. All known acceptable brand name products should be listed in the solicitation. When a "brand name or equal" purchase description is used in connection with a primary item, or a major component, prospective contractors must be given the opportunity to offer products other than those specifically referenced by brand name if those other products will meet the needs of the Government in essentially the same manner as those referenced. If modifications to standard products of prospective contractors to meet the purchase description requirements are anticipated, a minimum of 30 calendar days shall be allowed between issuance of the solicitation and opening of bids or receipt of proposals, provided that periods of less than 30 calendar days may be set only in cases where one of the statutory exceptions to publicizing the procurement in the Commerce Business Daily apply (see § 1–1.1003–2) and the contracting officer has reason to believe that bidders can bid effectively in a shorter period.

Note.—§ 1–1.1003–6 requires that bidding time shall be at least 30 days from the date of issuance of the solicitation whenever an agency is required to publish notice of procurement actions in the Commerce Business Daily.

* * * * *

b. Section 1–1.1003–2 is amended to revise paragraphs (a) and (b) and add new paragraphs (c) and (d) to implement the new notice requirements of Pub. L. 98–72. As amended, § 1–1.1003–2 reads as follows:

§ 1–1.1003–2 General requirements.

(a) In accordance with section 8 of the Small Business Act, all proposed competitive and noncompetitive civilian and defense procurement actions of $10,000 and above shall be publicized in the Commerce Business Daily immediately after the necessity for the procurement is established, except that the publication of such notices is not required when:

(1) The contracting officer determines in writing on a case-by-case basis that:

(i) The procurement is of a classified nature where the information necessary to be included or referenced in the solicitation (invitation for bids or request for proposals) is in itself of a classified nature and the public disclosure of this information would violate security requirements. All other classified procurements shall be published in the Department of Commerce Synopsis if sufficient information of an unclassified nature can be provided in the solicitation to enable a prospective contractor to submit a bid or proposal;

(ii) The agency's need for the property, supplies, or services is of such an unusual and compelling urgency that the Government would be seriously injured if the time periods set forth in § 1–1.1003–6 were complied with;

(iii) A foreign government reimburses the agency for the cost of the procurement of the property, supplies, or services for such government and only one source is available, or the terms of an international agreement or treaty between the United States and a foreign government authorize or require that all such procurement shall be from sources specified within such international agreement or treaty;

(iv) The procurement is made from another Government agency, or a mandatory source of supply;

(v) The procurement is for utility services and only one source is available;

(vi) The procurement is made against an order placed under a requirement or similar contract, including orders for perishable subsistence supplies. (This exemption may be used in cases where an agency places an order against an existing contract except as provided in § 1–4.1109–6(f) in FPR Temporary Regulation 71 with respect to non-mandatory schedule contracts for automatic data processing equipment.);

(vii) The procurement results from acceptance of a proposal pursuant to the Small Business Innovation Development Act of 1982 (Pub. L. 97–219), or an unsolicited proposal that demonstrates a unique or innovative research concept and publication of such unsolicited proposal would improperly disclose the originality of thought or innovativeness of the proposed research (see § 1–4.911); or

(2) The head of the agency determines, with the concurrence of the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable. (These determinations may cover classes of cases.)

(b) Whenever notice in the Commerce Business Daily is required by paragraph (a) of this section, the contracting officer shall provide:

(1) A clear description of the property, supplies, or services to be contracted for in accordance with § 1–1.1003–7. This description shall not be unnecessarily restrictive of competition.

(2) Adequate time for publication in the Commerce Business Daily and response from potential contractors in accordance with § 1–1.1003–6.

(3) The name, address and telephone number of the officer or employee of the agency who may be contacted to obtain a copy of the solicitation or, if the notice is for an intent to contract on a sole-source basis, such specification and information as practicable regarding the service or performance to be awarded (see §§ 1–1.1003–7(b)(3) and 1–3.107(b)(4)).

(c) As used in Parts 1–1 and 1–3, the term "sole-source contract" means a contract for the purchase of property, supplies, or services which is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

(d) The dollar amount specified in § 1–1.1003–2(a) is not a prohibition against publicizing procurements below that amount when it is determined that publication would be advantageous to industry or to the Government.

c. Section 1–1.003–6 is revised to implement the publicizing and response time requirements of Pub. L. 98–72. As amended, § 1–1.1003–6 reads as follows:

§ 1–1.1003–6 Publicizing and response time.

Whenever an agency is required to publish notice of procurement actions under § 1–1.1003–2(a), agencies shall proceed as follows:

(a) A proper notice of the procurement action shall be published in the Commerce Business Daily (CBD) at least 15 days before issuance of a solicitation, except when the solicitation is for procurement of requirements categorized as research or development effort, in which case the CBD notice shall be published at least 30 days before a solicitation is issued.

(b) Agencies shall allow at least 30 days response time from:

(1) the date of issuance of the solicitation,

(2) the date of a proper notice of intention to contract for architect-engineer services (see § 1–1.1003–3(d)), or

(3) in the case of orders under a basic agreement, basic ordering agreement, or similar arrangement, the date of publication of a proper notice to intent of place the order.

(c) Agencies shall allow at least 30 days response time from the date of publication of a proper notice of intent to contract before commencing negotiations for the award of a sole-source contract (see §§ 1–1.1003–2(c) and 1–3.107(b)(4)). Nothing in this paragraph prohibits officers or employees of agencies from responding to requests for information.

d. Section 1–1.1003–7 is amended to revise paragraph (b)(3) regarding the identification of an official and other information, and paragraphs (b)(7) and (b)(12) to change the time limitation for responses to sources-sought notices to 30 days. As amended, the revised paragraphs read as follows:

§ 1–1.1003–7 Preparation and transmittal.

* * * * *

(b) * * *

(3) *Contracting office and address.* The name and address of the contracting office will begin on the second line of the message text and continue straight across the page and on the subsequent line or lines if necessary. No abbreviations are to be used except for the name of the State. The address shall include an attention phrase directed to an official by name, title, and telephone number, who may be contacted for the purpose of obtaining a copy either of the solicitation or, if the notice is for an intent to contract on a sole-source basis, such specification and information as practicable regarding the service or performance to be awarded.

* * * * *

(7) *Research and development item.* Sources-sought notices described in § 1–1003–3(b) that publicize the Governmment's interest in a given field of research and development and invite the submission of information as to research and development capabilities, shall be headed "Research and Development Sources Sought." This heading shall be followed by a statement similar to the following (modifications may be made to suit agency needs):

"Concerns having research and development capabilities in the field of (Be specific), ———— and whose facilities and personnel include (Describe in substantial detail minimum facilities and personnel required) ———— are invited to submit complete information to the procuring office listed in this notice within —— calendar days from the date of this notice (no less than 30 days should be entered). Information furnished should include the total number of employees and professional qualifications of scientists, engineers, and technical personnel; a description of general and specific facilities; an outline of previous projects; a statement regarding industrial security clearance, if previously granted; and other available descriptive literature. This is not a formal solicitation. However, concerns that respond may request to receive a copy of a particular solicitation when it becomes available. This notice may represent the only official notice of such a solicitation."

* * * * *

(12) *Property or service item.* Notices described in § 1–1.1003–3(c) as sources-sought synopses shall be headed, "Property Sources Sought" or "Service Sources Sought." This shall be followed by a statement similar to the following (modifications may be made to suit agency needs):

"Concerns having the ability to furnish the following property (services) are requested to give written notification (including the telephone number for a point of contact) to the procuring office listed in this notice within —— calendar days (no less than 30 days should be entered) from the date of this synopsis:

(Describe the requirement so as to furnish a complete property (service) description, and a condensation of other essential information, to provide concerns with an intelligible basis for judging whether they have an interest in the procurement. Such information may include a statement regarding the Government's belief that the property or service may be available only from a sole source and the reasons for such belief.)

This is not a formal solicitation. However, concerns that respond should furnish detailed data concerning their capabilities and may request to receive a copy of the solicitation when it becomes available. This notice may represent the only official notice of such a solicitation."

e. Section 1–1.1004 is revised to read as follows:

§ 1–1.1004 Synopses of contract awards.

A notice announcing awards of all unclassified contracts exceeding $25,000 shall be published in the Department of Commerce Synopsis (see § 1–1.1003–1) when the award of subcontracts is likely under such contracts. The publicizing of smaller dollar awards is not prohibited when it would be advantageous to industry or to the Government.

f. Section 1–2.202–1 is amended to revise paragraphs (b) and (c) to implement the new bidding time requirements of Pub. L. 98–72. As amended, paragraphs (b) and (c) read as follows:

§ 1–2.202–1 Bidding time.

* * * * *

(b) *Factors to be considered.* The urgency of the Government's need for the items or services, the complexity of the invitation, the extent of subcontracting anticipated, the use of pre-invitation notices, the geographic distribution of bidders, the normal time for mail transmission of both invitations and bids, and other related factors, must be considered in establishing bidding time. For example, a bidding time of more than the statutory minimum of 30 days may be necessary when bidders are required to prepare special drawings, designs, and samples, or to obtain quotations from several suppliers and subcontractors, as frequently is the case in construction and production contracts. Conversely, a bidding time of 30 days may be adequate when bids would reasonably be expected to be based on stocks-on-hand, or current regular production, or service personnel and facilities regularly available (as in the case of maintenance and repair of structures, and similar work.)

(c) *Minimum bidding time.* Bidding time shall be at least 30 days (see Small Business Act, 15 U.S.C. 637) from the date of issuance of the invitiation for bids whenever an agency is required to publish notice of procurement actions in the Commerce Business Daily (CBD) in accordance with § 1–1.1003–2. This rule need not be observed if the agency's need for the property, supplies, or services is of such unusual and compelling urgency that the Government would be seriously injured if statutory publicizing and response times (see § 1–1.1003–6) were complied with, or if any of the other statutory exceptions to the requirement for publicizing in the CBD apply (see § 1–1.1003–2). Agencies shall develop procedures to ensure that this bidding time requirement is observed and that adequate bidding time is allowed when procurements are exempt from the statutory publicizing requirement (see paragraph (a) of this section).

* * * * *

g. Section 1–3.101 is amended to delete the exceptions to the noncompetitive contract review requirement in paragraph (d) and provide instead a reference to the sections that deal with review of noncompetitive procurements. Paragraph (e) is added to set forth the specific approval requirements for sole-source contracts included in Pub. L. 98–72. As amended paragraphs (d) and (e) read as follows:

§ 1–3.101 General requirements for negotiation.

* * * * *

(d) Negotiated procurement shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be noncompetitive, the procuring activity is responsible not only for ensuring that competitive procurement is not feasible but also for acting whenever possible to avoid the need for subsequent noncompetitive procurements. This action shall include both examination of the reasons for the procurement being noncompetitive and steps to foster competitive conditions for subsequent procurements, particularly as to the availability of complete and accurate data, reasonableness of delivery requirements, and possible breakout of components for competitive procurements. Contracts of more than $10,000 shall not be negotiated on a noncompetitive basis without prior review at a level higher than the contracting officer in accordance with § 1–3.107(d)(6) and § 1–3.108(e) to ensure compliance with this § 1–3.101(d).

(e) The further approval requirements prescribed by this paragraph (see Small Business Act, 15 U.S.C. 637(e)(4)) shall be complied with by agencies before a contract is entered into by an agency after soliciting and negotiating with only one source (i.e., sole-source contract) or a contract that results from an unsolicited proposal. Unless the negotiations for such a contract are conducted under Sections 8 or 9 of the Small Business Act, or unless an agency's need for the property, supplies, or services is of such unusual and compelling urgency that the Government would be seriously injured if the provisions of this paragraph were complied with, the agency may not commence negotiations for such a contract for more than $1,000,000 in fiscal year 1984, for more than $500,000 in fiscal year 1985, and for more than $300,000 in fiscal year 1986 and each year thereafter unless—

(1) The head of the procuring activity or his deputy, on a nondelegable basis, has approved the authority to enter into such contract, and

(2) The contracting officer for such contract has evaluated the responses to the notice of procurement action required in § 1–3.107(b)(4).

Note.—Nothing in this paragraph (e) prohibits an officer or employee of an agency from responding to a request for information.

(f) Agencies are required to report to the Congress annually on each negotiated contract that exceeds the amounts stated in paragraph (e) of this section if the head of the procuring activity or his deputy did not approve the authority to enter into such contract.

h. Section 1–3.103 is amended to revise paragraph (a) to read as follows:

§ 1–3.103 Dissemination of procurement information.

(a) Synopses of proposed procurements and contract awards shall be prepared and publicized in the Commerce Business Daily in accordance with the requirements of §§ 1–1.1003 and 1–1.1004. Particular attention should be given to the statutory publicizing and response times prescribed by § 1–1.1003–6.

* * * * *

i. Section 1–3.107 is amended as follows:

(1) Paragraph (b)(3) is deleted and is designated as reserved. The provision stated therein regarding a single response to a solicitation is unnecessary in view of new coverage added in paragraph (c)(4).

(2) Paragraph (b)(4) is revised to accommodate the new requirements of Pub. L. 98–72 regarding CBD notice requirements.

(3) Paragraph (c) is revised to add a number of new exceptions to the requirement for preparing written noncompetitive procurement justifications. Based upon initial experience with implementing the provisions of FPR Amendment 230, it was determined that individual justifications were required in some cases where they served no useful purpose. Also, the specific guidance regarding preparation of a

noncompetitive procurement justification was removed from paragraph (c) and placed in a new paragraph (d).

(4) Paragraph (d) is added to set forth guidance concerning the required content of noncompetitive procurement justifications that had previously been included in paragraph (c). Subparagraph (6) of this guidance is revised to include instructions concerning new approval levels for noncompetitive contracts established by Pub. L. 98–72.

(5) As amended, paragraphs (b)(3), (b)(4), (c), and (d) of § 1–3.107 read as follows:

§ 1–3.107 Justification of noncompetitive procurements.

* * * * *

(b) * * *

(3) [Reserved]

(4) If a noncompetitive procurement justification (see paragraph (c) of this section) is approved, and a sources-sought synopsis was published in accordance with paragraph (b)(2) of this section, the procurement action need not be again published in the CBD pursuant to § 1–1.1003–2, *unless* the sources-sought synopsis was not sufficiently specific to permit potential sources to identify an interest in the forthcoming procurement, did not provide for them to request solicitations for the procurement, or did not comply with the notice requirements of § 1–1.1003–2(b). All other proposed noncompetitive procurements, whether or not justified in accordance with this § 1–3.107, shall be announced in the CBD in accordance with § 1–1.1003–2 unless they qualify under one of the prescribed exceptions. This will permit potential sources to identify themselves as required by the Small Business Act. The statutory CBD notice, setting forth the Government's intent to contract on a noncompetitive basis, shall invite interested persons to identify their interest and capability to respond to the requirement, or submit proposals in response to such notice within the timeframe set forth in § 1–1.1003–6(c). Contracting officers shall evaluate all responses received and obtain the level of approval specified in § 1–1.3.101(e) before commencing negotiation of a noncompetitive contract. However, if a noncompetitive procurement justification is approved and (i) the noncompetitive procurement qualifies under one of the statutory exceptions stated in § 1–1.1003–2(a), or (ii) a sources-sought notice meeting the requirements of this paragraph had been published earlier and only one source was identified, negotiations on the noncompetitive procurement may proceed without publication of the CBD notice announcing the Government's intent to contract on a noncompetitive basis.

(c) *Written noncompetitive procurement justification.* A written noncompetitive procurement justification that documents the facts and circumstances substantiating the infeasibility of competition (see paragraph (d) of this section) is required for each noncompetitive procurement over $10,000, except when:

(1) The circumstance permitting noncompetitive procurement pertaining to a statutory authorization or requirement to contract with a specified source discussed in § 1–3.107(a)(1) applies;

(2) The procurement is for utility services and only one source is available;

(3) The head of the procuring activity or his deputy has approved a noncompetitive procurement justification covering a class of cases and, when applicable, has approved the authority to enter into such contracts in accordance with the requirements of § 1–3.101(e)(1). A copy of the class justification and applicable authority approval shall be included in pertinent contract files;

(4) The agency has published a procurement solicitation in the CBD and only one resource was received, *provided* the contract file is fully documented with the results of an examination as to why only one response was received and actions that will be taken to increase competition in future procurements of the same or similar items;

(5) The procurement involves an order under an existing contract. (FPMR § 101–26.4 and FPR § 1–4.1109–6 are applicable to orders under GSA Schedule contracts); or

(6) The procurement involves modifications within the current scope of work and existing terms and conditions.

(d) *Content of noncompetitive procurement justification.* This justification shall:

(1) Identify the problem, mission deficiency, or need that the procurement is intended to satisfy;

(2) Provide the facts supporting citation of one or more of the circumstances set forth in paragraph (a) of this section that permit use of a noncompetitive procurement;

(3) Demonstrate how the agency knows that the contractor is the only one that can meet the Government's minimum requirements. This justification requirement applies whenever the circumstances set forth in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section are cited. Refer to the topics of review responsibility in § 1–3.108(e) to ensure that the justification is adequately documented;

(4) Describe the market search that was conducted if required by § 1–3.107(b), including whether a sources-sought synopsis or advance notice inviting competition was publicized in the Commerce Business Daily;

(5) Describe the reasons why a market search could not be undertaken in connection with an unsolicited proposal (see § 1–4.910(b)); and

(6) Be reviewed and approved at a level higher than the contracting officer in accordance with § 1–3.101(d) and agency procedures. (Also see § 1–3.108(e).) Agencies shall establish the level of approval of noncompetitive procurement justifications in conformance with the statutory requirements in § 1–3.101(e).

j. Section 1–3.108 is amended to revise a reference to § 1–3.107 in paragraph (e). As amended, paragraph (e) reads as follows:

§ 1–3.108 Management controls designed to maximize the use of competitive procurement.

* * * * *

(e) Agencies should ensure that the required reviews of noncompetitive procurement decisions are effectively made (see §§ 1–3.101(d) and 1–3.107(d)(6)). The adequacy of the documentation of noncompetitive procurement justifications is of particular importance and should be emphasized in all procurement reviews. As each justification for noncompetitive procurement is reviewed, the reviewer should ascertain and evaluate:

(1) The reasons why the procurement cannot be competed;

(2) The adequacy of the grounds for excluding all other actual or potential offerors;

(3) Any further action that can be taken to obtain competition in the instant procurement; and

(4) Any action that is needed to avoid the need for a subsequent of a continued noncompetitive procurement.

k. Section 1–4.904 is amended to provide in paragraph (a) the statutory definition of the term "unsolicited proposal." As amended, paragraph (a) reads as follows:

§ 1–4.904 Definitions.

* * * * *

(a) "Unsolicited proposal" means a proposal that is submitted to an agency on the initiative of the submitter for the purpose of obtaining a contract with the

United States Government, and which is not in response to a formal or informal request (other than an agency request constituting a publicized general statement of need in areas of science and technology-based research and development that are of interest to the agency). Advertising material, commercial product offerings, contributions, or technical correspondence as defined in paragraphs (b) through (e) of this § 1–4.904, which are submitted to an agency, shall not be considered to constitute unsolicited proposals within the intent of this Subpart 1–4.9.

* * * * *

1. Section 1–4.910 is amended to revise paragraph (c) to read as follows:

§ 1–4.910 Method of procurement.

* * * * *

(c) Unless a competitive procurement is otherwise appropriate, a negotiated noncompetitive procurement emanating from an unsolicited proposal is permissible if (1) the market search, when undertaken in accordance with paragraph (b) of this section, discloses no potential competitors; (2) the unsolicited proposal receives a favorable technical evaluation (see § 1–4.909(d)); (3) a written noncompetitive procurement justification is prepared and reviewed when required by § 1–3.107(c); and, (4) the head of the procuring activity or his deputy, on a nondelegable basis, has approved the authority to enter into a contract when the amount of the procurement exceeds the statutory thresholds set forth in § 1–3.101(e). Based on a comprehensive evaluation of the proposal, the technical office shall provide the facts and circumstances that preclude competition and that support a recommended noncompetitive action, as well as other data required by § 1–3.107(d).

* * * * *

6. *Comments invited.* The short effective date requirements of Pub. L. 98–72 did not permit the solicitation of the views of all interested parties prior to the issuance of this temporary regulation. Agencies and interested parties are invited to comment on this regulation during the 30-day period following publication in the **Federal Register.** Consideration will be given to the comments in the preparation of a permanent amendment of the FPR. Comments should be forwarded to Frank T. Van Lierde, Office of Federal Acquisition and Regulatory Policy (VR), General Services Administration, Washington, D.C. 20405.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–28440 Filed 10–18–83; 8:45 am]
BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 409, and 489

Medicare Program; Prospective Payments for Medicare Inpatient Hospital Services; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS

ACTION: Interim rule; correction.

SUMMARY: This document corrects technical errors that appeared in the interim final regulations, published on September 1, 1983 (48 FR 39752), that implemented the prospective payment system for inpatient hospital services.

FOR FURTHER INFORMATION CONTACT: Mike Fiore, 597–0722.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–23845 beginning on page 39752 in the issue of Thursday, September 1, 1983 make the following corrections:

1. On page 39759, in column 1, the third line in section c.—After the parenthetical phrase "(CMP)", add "(as defined in Section 1876(b) of the Act for which regulations are being developed)".

2. On page 39763, in column 2, the 11th line from the top of the page—The phrase "reporting period to be changed" in corrected to read "close of the new reporting period being requested".

3. On page 39765, in column 3, the fifth and sixth lines from the top of the page—The equation "$2,374.50=$2.306.91 (wage adjusted labor share) 1.0293" should read "$2,374.50 divided by 1.0293=$2,306.91 (wage adjusted labor share)".

4. On page 39767, in column 1, in the sixth and seventh lines from the bottom of the page—The parenthetical phrase "(including both prospective and outlier payments)" should read "(excluding outlier payments)".

5. On page 39769, in column 1, the fifth through eighth lines from the bottom of the page—The sentence is corrected to read "The FTE intern and resident to bed ratio is then divided by .1 and multiplied by 5.795 percent, the indirect education adjustment factor, and the product is added to 1.0".

6. On page 39773, in columns 1 and 2, at the top of the page—The parenthetical expression "(Base year costs)" in the formula is corrected to read "(Base year costs per discharge)".

7. Also on page 39773, in column 1, in the fifth line of the fifth paragraph—The phrase "target rate percentage" should read "updating factor".

8. Also on page 39773, in column 2, in the eighth line of the fifth paragraph—The phrase "cost per case" is corrected to read "cost per discharge".

9. On page 39774, in column 2, the second sentence of the first full paragraph—The sentence should read "To update, the base year costs are multiplied by an updating factor that is equal to the adjustment factor for budget neutrality (.984) multiplied by a number equal to 1 plus the applicable compounded target rate percentage (as used for the rate of increase ceiling under revised § 405.463)".

10. Also on page 39774, in column 3, the second sentence in the second full paragraph—The sentence should read "The annual factor will be published quarterly in the **Federal Register**".

11. Also on page 39774, in column 3, the sixth line in the first paragraph under section vi.—"1.14258" is corrected to read "1.13570". In the example immediately following this paragraph, the phrase "Base year costs" is corrected to read "Base year costs per discharge"; the updating factor of "1.14258" is corrected to read "1.13570", and the amount of "$3,171.54" for the Hospital specific rate is corrected to read "$3,139.13".

12. On page 39776, in column 2, the sixteenth line of the first full paragraph—The word "including" in the parenthetical phrase should read "excluding".

13. Also on page 39776, in column 2, in the middle of the page—The phrase "slightly less than 2 percent" should read "about 2.5 percent". In the following sentence, "5.1 percent" is corrected to read "4.4 percent".

14. Also on page 39776, in column 3, the sixth line from the top of the page—The number ".9 percent" is corrected to read "1 percent".

15. On page 39777, in column 1, in the 12th and 13th lines of the second full paragraph—The phrase "For cost reporting periods beginning" is corrected to read "For discharges".

16. Also on page 39777, in column 2, at the top of the page in Step 2—The Wage-Adjusted Threshold="($12,000×.7915×1.10)+($12,000×.2085)=$12,949.". Step 3 should read "Determination of Outlier Payment: Outlier Payment=($21,134−$12,949)× 60 percent=$4,911.* ".

17. On page 39778, in column 3, the third paragraph—The equation is the

example is corrected to read "$1,320,000 × .1159 × 1.1224 = $171,714".

18. On page 39780, in column 3, the ninth and tenth lines from the bottom of the page—The phrase "unless they qualify under paragraph i. above" should be deleted.

19. On page 39782, in column 3, the ninth line from the top of the page—The word "before" should be "during". In the next line, delete the word "begins".

20. On page 39784, in column 3, in the fourth paragraph—The cross reference in the first sentence to "section 1886(g)(2)" should read "section 1878(g)(2)".

21. On page 39793, in column 3, at the end of the first full paragraph—The cross reference to § 405.470(b)(6) should be § 405.310(m).

22. On page 39800, in column 2, at the seventh line of the first full paragraph—The phrase "to included would be" should read "to providers would be included".

23. Also on page 39800, in column 3, at the 21st line from the bottom—The phrase "reasonable payment" should read "reasonable charge payment".

24. On page 39802, in column 1, at the end of the second paragraph—The cross reference to § 405.301(m) should be § 405.310(m).

25. On page 39803, in column 3, in the middle of the page—The 5th sentence is corrected to read "We are amending the other sections in more limited ways: Section 405.452 is being amended to ensure that it does not apply to hospitals paid under the prospective payment system, and §§ 405.432 and 405.455 are being amended to provide that the salary equivalency guidelines and the lesser of cost or charges provisions respectively do not apply to the costs of inpatient hospital services".

26. On page 39804, in column 1, at the 5th line of the second paragraph—the second sentence should read "This approval is valid until June 30, 1984, and the control number is 0938-0288."

§ 405.452 [Corrected]

27. On page 39814, in column 1, at the first table labeled "Hospital E" (in § 405.452(e)(1)(ii)—the amount of "$820,000" for the Total charges of Private accommodations is corrected to read "$20,000".

28. In the same table on page 39814, in the last line—The equation "($175,000 semi-private charge + 1000 days)" should read "$175,000 semi-private charge divided by 1000 days)"

29. On page 39815, in column 1, paragraph q.—The amendatory language is corrected to read as follows: "Section 405.455 is amended by revising paragraphs (a) and (d)(1) and (d)(2)(ii), and removing (d)(2)(iii) to read as follows:".

§ 405.471 [Corrected]

30. On page 39819, in column 2, the last line in the second paragraph—In § 405.471(a)(2)(iii), the cross reference to "§ 405.2040(d)" should read § 405.2041(d)".

31. On page 39820, in column 2, in the third line from the bottom of the page—In § 405.471(c)(4)(ii), "age of 13." should read "age of 18.".

§ 405.472 [Corrected]

32. On page 39821, in column 1, the fourth and fifth lines from the bottom of the page—In § 405.472(c), delete "length of stays,", and add "days or" before "services furnished".

33. Also on page 39821, in column 2, in the middle of the page—In § 405.472(d)(2)(ii), "six months" in the second line should read "quarter", and "six-month period" in the fourth line should read "quarter".

34. Also on page 39821, in column 3, the last full paragraph—In § 405.472(e), the second paragraph designated as "(3)" should be designated as paragraph "(4)".

35. On page 39822, in column 1, the first full paragraph—In § 405.472(e), the paragraph designated as "(4)" should be designated as paragraph "(5)".

§ 405.473 [Corrected]

36. On page 39823, in column 2, at the top of the page—In § 405.473(b)(11), the title to paragraph (11) is corrected to read "Adjusting for different area wage levels".

§ 405.474 [Corrected]

37. On page 39824, in column 2, in the 11th line from the top of the page—In § 405.474(a)(1), the word "specific" should read "special".

38. On page 39825, in column 1, at the 3rd line from the bottom of the page—In § 405.474(b)(1)(iv), the paragraph designation should be "(C)".

§ 405.475 [Corrected]

39. On page 39826, in column 3, the sixth line from the bottom of the page—In § 405.475(d)(6), the phrase "paragraph (d)(3)" is corrected to read "paragraph (d)(4)".

40. On page 39830, in column 1, in line 5 of the Authority section for Subpart E—The U.S.C. citation "1395(a)" should read "1395l(a)".

§ 405.550 [Corrected]

41. Also on page 39830, in column 1, § 405.550(d)(1) is corrected to read "For services performed by a physician that may be reimbursed under the reasonable cost rules in §§ 405.480 or 405.481 or would be paid under those rules except for the prospective payment rules in § 405.470, neither provider nor physician may seek charge payment from the carrier, beneficiary, or another insurer".

§ 405.554 [Corrected]

42. On page 39831, in column 1, in the middle of the page—In § 405.554(b), the 12th line, the cross reference to "§ 405.550(e)" is corrected to read "§ 405.550(e)(2)".

§ 405.1042 [Corrected]

43. On page 39832, in column 1, on the last line of the page—In § 405.1042(c)(2)(i), the cross reference should be § 405.475(a)(1).

44. Also on page 39832, in column 3, in line 4 of the Authority section for Subpart P—The U.S.C. citation "1395it" should read "1395tt".

§ 405.1630 [Corrected]

45. On page 39833, in column 3, in the middle of the page—In § 405.1630(b), the third and fifth lines from the end of that paragraph, the certification date of "September 14" should read "September 12", and the first recertification date of "September 21" should read "September 18".

46. Also on page 39833, in column 3, in line 4 of the Authority section for Subpart R—The U.S.C. Citation "1395" should read "1395l".

47. On page 39839, in column 2, in the middle of the page—The reference to "Table 3" is corrected to read "Table 3a".

48. On page 39840, in column 1—The formula immediately preceding section D. should read "(Average Cost Per Medicare Discharge) × (20.85 percent) divided by (Cost-of-Living Adjustment Factor)".

49. Also on page 39840, in column 3, the second line from the bottom of the first full paragraph—The phrase "of total payments" is corrected to read "of total basic payments (excluding outlier payments)".

50. On page 39842, in column 2, the 13th through the 17th lines from the top of the page—These lines are corrected to read "mathematical error or the hospital successfully appeals their base period allowable costs within the specified time.".

51. Also on page 39842, in column 2, the fourth line in the first paragraph of section 2.—The reference to "Table 3" should read "Table 3a".

52. Also on page 39842, in column 3, the second sentence in section 5.—This sentence is corrected to read "For cost reporting periods beginning on or after

October 1, 1983 and before October 1, 1984, the updating factor is equal to the adjustment factor for budget neutrality (.984) multiplied by a number equal to 1 plus the applicable compounded target rate percentage (as used for the rate of increase ceiling under revised § 405.463).".

53. On page 39843, in column 1—The Updating Factor table at the top of the page should be revised as follows:

If base year cost reporting period ends	And first cost reporting period under PPS ends	Updating factor
Sept. 30, 1982	Sept. 30, 1984	1.13570
Oct. 31, 1982	Oct. 31, 1984	1.13265
Nov. 30, 1982	Nov. 30, 1984	1.12961
Dec. 31, 1982	Dec. 31, 1984	[1] 1.12658
Jan. 31, 1983	Jan. 31, 1985	[1] 1.12658
Feb. 28, 1983	Feb. 28, 1985	[1] 1.12658
Mar. 31, 1983	Mar. 31, 1985	[1] 1.12658
Apr. 30 1983	Apr. 30, 1985	[1] 1.12658
May 31, 1983	May 31, 1985	[1] 1.12658
June 30, 1983	June 30, 1985	[1] 1.12658
July 31, 1983	July 31, 1985	[1] 1.12658
Aug. 31, 1983	Aug. 31, 1985	[1] 1.12658

[1] These updating factors are subject to change depending on changes in the target rate percentages used to compute them. We will publish a quarterly notice in the FEDERAL REGISTER setting forth the percentages and factors to be used for cost reporting periods beginning in the subsequent calendar quarter.

54. Also on page 39843, in column 1, the fifth line in section 6.—"1.14258" is corrected to read "1.13570". In the example immediately following the paragraph, the updating factor of "1.14258" is corrected to read "1.13570", and the amount of "$3,171" for the Hospital-specific rate is corrected to read "$3,139.13".

55. Also on page 39843, in column 2, in the middle of the page after Step 5—A "Step 6" should be added to read "Multiplying the final amount from Step 5 by .25".

56. Also on page 39843, in column 3, in the middle of the page—The phrase "slightly less than 2 percent" is corrected to read "about 2.5 percent". In the following sentence, "5.1 percent" is corrected to read "4.4 percent".

57. Also on page 39843, in column 3, in the fourth line from the bottom of the third paragraph—The phrase "of $6,000 or more" should read "exceeding $8,000". In the second line from the bottom of the third paragraph, the phrase ".9 percent" should read "1 percent".

58. Also on page 39843, in column 3, the second sentence in the fourth paragraph—The sentence should read "In summary, alternate placement days will be treated the same as other inpatient days and will qualify for outlier payment.".

59. On page 39844, in column 1, at the first line of Section D.—The citation "Section 1886(d)(5)(8)" should read "Section 1886(d)(5)(B)".

60. Also on page 39844, in column 1, at the 12th line of Section D.—The cross reference "Section III.D.S." should read "Section III.D.5.".

61. Also on page 39844, in column 3, the second line from the top of the page—The phrase "interim final" is corrected to read "interim final rule".

62. On page 39882, on page 7 of Table 5—The Relative Weight for DRG 302, which reads "6.6322", should read "4.2279".

63. On page 39887, in column 2, at the end of the first paragraph—The last sentence is corrected to read "To assist in making the budget neutrality adjustment for fiscal year 1985, HCFA will monitor, and take account of, changes in hospital behavior attributable to the new system."

64. On page 39889, in column 1, in the 14th line from the top—The word "on" should read "of".

(Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1862(a), 1871, 1876, 1881, 1883, 1886, and 1887 of the Social Security Act, as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395y(a), 1395hh, 1395mm, 1395rr, 1395tt, 1395ww, and 1395xx))

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated October 3, 1983.

Carolyne K. Davis

Administrator, Health Care Financing Administration.

Approved October 14, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-28409 Filed 10-18-83; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 530

Interpretations and Statements of Policy; Dual Rate Contract Systems; Removal

AGENCY: Federal Maritime Commission.

ACTION: Removal of interpretative rules.

SUMMARY: These rules were promulgated by the Commission to accommodate and facilitate certain changes required to be made to dual rate contract systems that existed at the time of the enactment of Pub. L. 87-346 which added section 14b to the Shipping Act, 1916. Because these rules have served their purpose and have no further application, they are being removed.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission promulgated certain interpretative rules found at 46 CFR 530.2, 530.3 and 530.4 to accommodate and facilitate certain changes required to be made to dual rate contract systems that existed at the time of enactment of section 14b, Shipping Act, 1916, to bring them in compliance with the new statute. Because said rules have served their intended purpose and have no further application, they should be removed.

List of Subjects in 46 CFR Part 530

Administrative practice and procedure, Maritime carriers.

§§ 530.2, 530.3 and 530.4 [Removed]

Therefore, it is ordered, that pursuant to 5 U.S.C. 553 and sections 14b and 43, Shipping Act, 1916 (46 U.S.C. 813a and 841a), §§ 530.2, 530.3 and 530.4 of Title 46 of the Code of Federal Regulations are removed.

By the Commission, October 4, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28441 Filed 10-18-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 350

Motor Carrier Safety Assistance Program: Notice of Extension of Closing Date for Submission of FY 1984 Applications

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Change of closing date.

SUMMARY: This notice provides extension of the closing date for submission of FY 1984 applications by States under the Motor Carrier Safety Assistance Program until November 30, 1983. The FHWA believes that insufficient time was allowed for State application preparation. This extension will permit States to develop more comprehensive and thorough implementation plans and application packages for consideration.

FOR FURTHER INFORMATION CONTACT: Mr. W. R. Fiste, Bureau of Motor Carrier Safety, (202) 426-0701 or Mr. Thomas Holian, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET.

Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: An interim final rule was published on August 31, 1983 at 48 FR 39455 (23 CFR Part 350) concerning the procedures to be followed by States in the preparation of applications for funding assistance under the Motor Carrier Safety Assistance Program (MCSAP). The preamble of the interim final rule stipulated that for FY 1984, applications under the program were to be submitted to the respective State FHWA Division Office within 60 days of the publication of the interim final rule. As the publication date was August 31, each interested State was to respond not later than October 30, 1983.

This extension of time for the submission of State applications to the respective State FHWA Division Offices is being extended to November 30, 1983.

This extension is being provided in response to requests by the States indicating difficulties in assessing the State's ability to qualify for the program and in preparing a meaningful application package. This has been compounded by a delay in providing FHWA region and division offices detailed application preparation instructions.

The closing date for comments to the interim final rule remains November 29, 1983.

Issued on: October 12, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-28401 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-22-M

Proposed Rules

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1446

Price Support Differentials for the 1984-Crop Peanut Loan and Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Proposed rule related; notice of intent to review and request for comments.

SUMMARY: This notice seeks public comment and suggestions concerning the development of price differentials for 1984-crop peanuts. Differentials adjust basic support levels for peanut-type, quality and other factors. Such adjustments are authorized by section 403 of the Agricultural Act of 1949 (hereinafter referred to as the "1949 Act").

DATES: Comments must be received on or before December 19, 1983, in order to be assured of consideration.

ADDRESS: Written comments should be addressed to Director, Tobacco and Peanuts Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Solomon J. Whitfield, Agricultural Stabilization and Conservation Service, 202-447-5754.

SUPPLEMENTARY INFORMATION: Section 403 of the 1949 Act permits price adjustments for quality and other factors for price-supported commodities so long as, to the extent practicable, the average level of support is equal to the basic support level determined by the Secretary of Agriculture to apply for the particular crop year. A farmers stock ton of peanuts is usually a composite of a large but variable proportion of high quality edible Sound Mature Kernels (SMK) and smaller quantities of lower quality Loose Shelled Kernels (LSK), Other Kernels (OK), and Damaged Kernels (DK).

Under the differentials applicable to the 1983 crop and preceding crop years, the value of any farmers stock ton has been computed based on the composite of the quantity and mix of these kernel values, plus a premium for Extra Large Kernels (ELK) in the case of Virginia-type peanuts, and discounts for such factors as foreign materials (FM), excess moisture (EM), and damaged kernels (DK). In addition to these discounts and adjustments, the differentials in place since 1976 have set SMK values which vary by peanut type. There are four basic peanut types: Virginia, Runner, Spanish and Valencia-type peanuts. After protracted consideration in connection with the 1976 crop, the SMK value for Virginia-type peanuts was set at 2 percent higher than for Runner-type peanuts. At the same time, the SMK value for Spanish-type peanuts was set at one-half percent higher then for Runners. Prior to 1976, it was determined that the dollars per ton for Valencias would be the same as for Virginias. These variances have continued to date. Other than the differing SMK values, the differentials in place for the 1983 crop and preceding years since 1976 have not varied among peanut types or location of production except for: (1) A special ELK premium for Virginia-type peanuts and (2) a higher triggering level for the excess moisture discount as set forth in the regulations governing the peanut price support program at 7 CFR 1446.52(ee) for peanuts grown in traditional peanut growing States in the Virginia-Carolina area and other States outside the traditional peanut-producing States of the Southeastern and Southwestern regions. In calculating expected average support levels for a current crop based on the incidence of quality factors, the Department has followed the practice of using data from the five immediately preceding crop years. However, data from the 1980 crop has not been used in these averages because of the extreme drought conditions present that year.

In the early years of the support program for peanuts, market prices of farmers stock peanuts comprised the basis for the establishment of price support differentials. Later, loan rates virtually established commercial price at the farm level. For that reason, public hearings and other contacts with grower and trade interest became the primary sources of data used in establishing loan schedules. The variances in SMK values were set in 1976 after protracted consideration. In 1977, there was disagreement in the industry concerning SMK prices, but no change was made. For the 1978 through 1982 crops, no objections were raised to the differentials. However, in connection with the promulgation of the differentials for the 1983 crop year, parties interested in Virginia-type peanuts suggested substantial changes in the differentials. Contending that Virginia-type peanuts were at a disadvantage compared with other peanut types, the commenters suggested: (1) That the ELK premium for Virginia-type peanuts be lowered; (2) that the amount in a given ton which could receive the ELK premium be reduced; (3) that the method for determining the expected incidence of ELKs be changed to a two or three year average; and (4) that the excess moisture discount triggering level be made uniform for all peanuts.

For the reasons set forth in the determination published in the **Federal Register** on August 10, 1983 (48 FR 36297), the suggested changes were not adopted for the 1983 crop year. That determination sets out, in full, the differentials applicable to the 1983 crop year.

Though not adopted for the 1983 crop year, the concerns raised by the commenters in connection with the 1983-crop differentials are not confined to the 1983 crop year, but also to the possible effects of peanut differentials on the long-term market relationship between peanut types. Differentials involve possible effects between peanut types not only because of the potential market effects of changes in relative price among types but also in light of the averaging requirements of Section 403 of the 1949 Act under which an increase or decrease in a particular support level requires an offset to bring the average support level back into balance. Peanut differentials, as indicated, have not changed substantially since 1976. The Department, particularly in light of the objections raised with respect to the promulgation of differentials for the 1983 crop, wishes to obtain broad public comment on the differentials in preparation for the 1984 crop year directly, and indirectly with respect to the operation of the program in subsequent crop years. All comments are welcomed and will be considered. Most desired, however, are comments

which present full differential packages, which address the cross-type effects of suggested adjustments and which address the following questions:

1. The 1983-crop differentials were established using a 5-year average excluding the 1980 crop. Should the Department increase or decrease the number of years averaged? If so, by how much? Should the Department use the preceding crop year's quality factors and not an average?

2. The Department used a 5-year linear regression of the Agricultural Marketing Service Tonnage Reports data to project production weights by type for the 1983 crop. Is this system adequate in estimating peanut production? If not, how might the Department more accurately estimate production weights of peanuts by type?

3. As far back as Department records are available, the level of allowable moisture for peanuts has been 8 percent for the Virginia-Carolina area, and 7 percent in other areas. Should the Department change this historical moisture level difference? If so, how might the Department fairly and equitably implement such a change?

4. The 1983-crop differentials allowed for a premium for extra large kernels for Virginia-type peanuts. Should the Department offer premiums for extra large kernels in all types? Should the Department eliminate or reduce premiums for extra large kernels? Should the Department limit the percent of a lot which may qualify for the premium?

5. The Department assigned values of 7 cents per pound to loose shelled kernels and $1.40 percent for other kernels for the 1983 crop. Should the value of these kernels be reassigned to other components of the differentials? Should the values be increased or decreased and if so, for which other differential components should offsetting changes be made?

6. The sound mature kernel value for differences in type and location for the 1983 crop put the SMK value for Virginia-type at 2 percent above the SMK value of Runner-type, the Spanish-type SMK value at ½ percent above the Runner value, and the dollars per ton price for the Valencia-type at the the same level as that for Virginia-type peanuts. These relationships have been in effect since the 1976 crop. Should the Department eliminate these relationships and establish uniform SMK values? Should the SMK value for Runner type peanuts be higher than for other types? Should the dollars per ton for Valencia-type peanuts continue to be the same as the dollars per ton for Virginia-type and automatically be altered when changes are made in the dollars per ton price for Virginia-type peanuts?

Consideration of the comments will be aided by a presentation of the reasons for which the commenter believes adjustments are appropriate. Consideration of the comments will also be aided by the inclusion of any available data supporting or relevent to proposed adjustments.

After reviewing the comments, the Department will determine whether to propose specific changes in the method of determining the peanut differentials for the 1984 corp year.

List of Subjects in 7 CFR Part 1446

Loan programs—agriculture, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Signed in Washington, D.C. on October 12, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-28145 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins REA Form 522, General Specification for Digital, Stored Program Controlled Central Office Equipment

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A—REA Bulletins by issuing a revision of REA Bulletin 384–3, Central Office Equipment Contracts and Specificiations. This action is being taken to announce a revisions of REA form 522 to keep it abreast of the fast changing technology of electronic telephone central office equipment. The specification will include new developments considered advantageous to REA borrowers and their subscribers.

DATE: Public comments must be received by REA no later than November 18, 1983.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Arthur H. Marthens, Chief, Central Office Equipment Branch, Telecommunications Engineering and Standard Division, Rural Electrification Administration, Room 2832, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8671.

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

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins by issuing a revised REA Bulletin 384–3, Central Office Equipment Contracts and Specifications. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees.

A copy of the proposed revised document is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Background

The current REA Form 522, which is a performance specification for electronic processor controlled telephone central office equipment using digital switching techniques, was developed in 1978. Since that time there has been constant improvement in the technology of this type of switching.

There have been improvements in the diagnostic programs, the operation of remote switching terminals, grounding techniques for protection, and the increased interconnection of digital offices requires more accurate internal clocks. There has been the addition of administrative information output, custom calling features, automatic number identification, call ticketing capability, and numerous lesser

improvements in software and hardware design. This revision of Form 522 addresses these new advances in technology and will provide the means for making them available to REA borrowers when they purchase this type of equipment. These new advanced technologies will reduce operating costs and add revenue-producing features to the borrowers' systems. This action, which will impact all borrowers and manufacturers of this equipment, will enable REA borrowers to more efficiently and cost effectively provide telephone service to rural America.

In view of the above, the Administrator is proposing to issue revised REA Bulletin 384–3, Central Office Equipment Contracts and Specifications.

As required by 1 CFR 18.20, the following are the indexed terms and list of subjects fo this regulation:

List of Subjects in 7 CFR Part 1701

Loan programs—communications, telecommunications, telephone.

Dated: July 21, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-28494 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

[Docket No. PRM-60-1]

States of Texas, Wisconsin, Minnesota, Nevada, and Utah; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Receipt of Petitions for Rulemaking from the States of Texas, Wisconsin, Minnesota, Nevada, and Utah.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated September 2, 1983, which was filed with the Commission by the States of Texas, Wisconsin, Minnesota, Nevada, and Utah. The petition was docketed by the Commission on September 6, 1983 and has been assigned Docket No. PRM-60-1. The petitioners request that the Commission amend its regulations in 10 CFR Part 60 to adopt a procedural mechanism to govern current and future concurrence in high level nuclear waste repository siting guidelines which are issued by the Department of Energy pursuant to Section 112(a) of the Nuclear Waste Policy Act of 1982.

DATE: Comment period expires November 2, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–492–7086 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION: The petitioner state that a rulemaking is needed to establish a procedural framework for the Nuclear Regulatory Commission to implement the concurrence requirement of Section 112(a) of the Nuclear Waste Policy Act. Section 112(a) of the Act requires the Department of Energy to issue guidelines that govern the recommendation of repository sites for the permanent storage of high-level radioactive waste. The Act further requires that the guidelines receive the concurrence of NRC.

The petitioners propose that the text of the proposed rule read as follows:

Siting Guidelines Concurrence

(a) As soon as possible following the issuance by the DOE of the proposed final guidelines for the recommendation of sites for nuclear waste repositories pursuant to Section 112(a), Nuclear Waste Policy Act of 1982, the Secretary of Energy shall submit to the Director [of the Nuclear Regulatory Commission's Office of Nuclear Material Safety and Safeguards] a request for concurrence which includes: (1) A request that the Commission concur in the form and substance of the proposed final guidelines; (2) a description of the technical rationale behind the objectives established in the proposed final guidelines; (3) a full description of the entire decision process by which the guidelines were drafted; and (4) a list of any issues related to repository recommendation which the DOE desires the Commission to review in connection with the proposed final guidelines.

(b) The Director shall cause to be published in the **Federal Register** a notice that (1) a DOE request for concurrence has been received, (2) a staff review of the request and the proposed final guidelines has been initiated, and (3) copies of the request and proposed final guidelines are available upon request. Additionally, the Director shall transmit copies of the request and proposed final guidelines to the governor, the state legislature, and the tribal council of any affected Indian tribe for each state with a potentially affected site.

(c) The Director shall prepare a draft guidelines analysis which (1) evaluates the proposed final guidelines with reference to all applicable Commission policies and requirements, (2) recommends which such guidelines should receive concurrence and which should not, and (3) sets forth the rationale for each concurrence of nonconcurrence. The Director shall cause to be published in the **Federal Register** a notice of availability of the draft guidelines analysis along with a request for public comment. Copies of the draft guidelines analysis shall be transmitted to the governor, the state legislature, and the tribal council of any affected Indian tribe for each state with a potentially affected site.

(d) A period of not less than 60 days shall be allowed for comment on the draft guidelines analysis. The Director shall then prepare a final guidelines analysis which shall take into account comments received and any additional information acquired during the comment period. The final guidelines analysis shall complete the evaluation, recommendation, and rationale components of the draft analysis, and shall include a response to the public comments received. Thereupon, the Director shall transmit the final guidelines analysis to the Commission for consideration. Copies of the final guidelines analysis shall be transmitted to the governor, the state legislature, and the tribal council of any affected Indian tribe for each state with a potentially affected site. The Commission in its discretion may conduct a public hearing to receive public comment relative to Commission consideration of the final guidelines analysis.

(e) On the basis of the Director's final guidelines analysis, the public comment, and any other pertinent information in the administrative record, the Commission shall decide by a vote of its members to concur or to withhold concurrence with the DOE proposed final guidelines. The Commission shall cause to be published in the **Federal Register** the text of its order of concurrence or nonconcurrence.

(f) The procedures described in paragraphs (a) through (e) of this Section pertaining to the Commission's concurrence on DOE proposed final guidelines shall apply equally to any subsequent revisions proposed by DOE regarding such guidelines.

The petitioners state that the adoption of the formalized concurrence mechanism to carry out the statutory requirement is necessary for the following reasons:

1. *The proposed rule promotes NRC's distinctive role under the Nuclear Waste Policy Act:* The Act 42. U.S.C. 10101 et seq., reveals that Congress intended NRC involvement and participation throughout the entire site selection process for a high level nuclear waste repository. The underlying purposes for NRC's involvement in the site selection process are (a) to enhance the licensability of the repository sites recommended by DOE and (b) to fulfill NRC's regulatory responsibility for the protection of the public health and safety and the environment.

2. *The proposed rule is a necessary and desirable means to promote NRC's distinctive role in guidelines development.* The proposed rule will establish a thorough and open process whereby the NRC can bring its expertise and responsibility to bear on the siting guidelines. By calling for notice and comment on the staff's concurrence analysis, the proposed rule provides the interested public the opportunity to offer recommendations which will ensure that the final version of the guidelines reflects NRC policies as well as those of DOE.

3. *NRC concurrence is rulemaking or its equivalent.* The Act of NRC's concurrence or nonconcurrence in the Section 112(a) guidelines amounts to an act of rulemaking. Adoption of the guidelines by DOE is being treated as rulemaking. The guidelines fit the Federal Administrative Procedure Act definition of a rule found at 5 U.S.C. 551 (4). Accordingly, an equivalent rulemaking process should attend NRC concurrence in the guidelines.

Finally, the petitioners states that the proposed concurrence rule injects no newfangled scheme into NRC administrative procedures and bears close resemblance to the existing NRC rule 10 CFR 60.11 pertaining to NRC oversight of DOE site characterization for high level waste repositories. Thus the petitioners merely propose that a familiar procedure in a closely related matter be adopted for use in connection with guidelines concurrence.

In the petition (which consists of a 13-page brief), the petitioner provides additional justification and support for the requested proposed rule not included in the **Federal Register** notice. Members of the public interested in filing comments on PRM–60–1 can obtain a copy of the petition by writing to the address noted above.

Dated at Washington, DC, this 14th day of October 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-28492 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 140

Financial Protection Requirements and Indemnity Agreements; Facility Form Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposal rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to add statements to its regulations that would indicate that the text of the Facility Form policy, including any codified amendatory endorsement or change to the policy, is an example of a contract that has been "accepted" as evidence of financial protection but that other variations on the text would be considered by the Commission. This action is intended to remove the misimpression that the Commission requires the exact language presented in the text of the Facility Form policy.

DATE: Submit comments by November 18, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Services Branch.

FOR FURTHER INFORMATION CONTACT: Ira Dinitz, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–9884.

SUPPLEMENTARY INFORMATION: On February 18, 1981, the Commission published a Notice of Proposed Rulemaking in the **Federal Register** (46 FR 12750) seeking public comment on whether to continue publishing in 10 CFR 140.91, Appendix A, the entire Facility Form of nuclear liability insurance policy furnished by certain licensees as evidence of financial protection or, alternatively, to publish only those provisions of the policy relating to NRC responsibilities for protection of the public.

Two comments were received in response to the notice, and both opposed the Commission's proposed modification. The first comment, submitted by Baltimore Gas and Electric Company, stated in part that if the Commission does not want to appear to give its approval to contractual matters between the insured and the insurers that do not affect the protection of the public, specific provisions of the policy could be disclaimed. The second commenter, American Nuclear Insurers (ANI), expressed its difficulty in identifying those parts of an insurance policy that would not affect financial protection. ANI suggested that in order to retain the present system of publishing the Facility Form in the regulations while still addressing the Commission's concerns, an introductory statement be added to the regulations that would make clear that the text of the Facility Form policy or amendatory endorsements are merely examples of contracts which the Commission would consider acceptable as proof of financial protection, but that other variations on the text would be considered by the Commission.

The Commission, after evaluating the two comments, decided instead to remove Appendix, A, the Facility Form policy and the other Appendices, B through H, from 10 CFR Part 140, and publish them in a Regulatory Guide. (Appendices B through H, except for Appendix F, are standard form indemnity contracts executed by the Commission and its licensees. Appendix F is not a form of indemnity agreement but a determination by the Commission of what the boundaries of indemnity locations should encompass when multiple reactors exist as part of a single operating station.) A Notice of Proposal Rulemaking was published in the **Federal Register** on March 4, 1983 (48 FR 9284) that sought public comment on amendments to 10 CFR Part 140 which would delete Appendices A through H. Eighteen comments were received on the notice. Commenters included a public interest group, a nuclear supplier, trade organizations, the nuclear insurance pools, utilities and law firms

representing utilities. All of the commenters argued against removing the Appendices from the regulations. Their major arguments are as follows:

(1) To publish the Appendices as Regulatory Guides would be ill-advised because Guides do not have the force of law and are not an appropriate repository for NRC requirements, generic determinations or generic approvals Nuclear liability insurance and indemnity have been treated as matters subject to the rulemaking provisions of the Administrative Procedure Act. Therefore, removal of the Appendices from the regulations would be contrary to law.[1]

(2) The proposed rule contains only meager information as to why the Commission proposed this change. The Facility Form policy has become a standard form used by insurers and universally accepted by licensees and state insurance commissioners. If this form were removed, the Commission would be required to make a determination on a case-by-case basis that the form of insurance obtained by the licensee did in fact provide necessary financial protection.

(3) Removal of the Appendices creates the potential for protracted litigation on insurance and indemnity issues in individual licensing proceedings. Further relegation of the Facility Form policy to the status of a Regulatory Guide may lead states, all of which have accepted the existing Form as codified in 10 CFR Part 140 as adequate proof of financial protection, to vary financial protection requirements for reactors.

(4) The North Carolina Public Interest Group also set forth the following comment not addressed by the other commenters:

> This rule will effectively de-regulate nuclear insurance coverage and terms. Given the penchant of nuclear power companies to try to save money wherever possible, insurance could be cut back under this rule. Therefore, this rule should not be adopted.

After consideration of these comments, the Commission has decided to continue to publish the Appendices to 10 CFR Part 140 with certain clarifying statements made to Appendix A. This proposed new language would state that the text of the Facility Form policy or amendatory endorsements to the policy are merely examples of contracts that the Commission would consider acceptable as proof of financial protection, but that other variations of the text would be considered as well. This new language would remove the misimpression that the Commission is placing its imprimatur on all of the language in the text of the Facility Form.

[1] This conclusion is not accepted by the Commission because the Atomic Energy Act does not require that the Facility Form policy and indemnity agreement forms be published in the regulations.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0039.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed rule affects in part two named nuclear liability insurance underwriting pools. These two pools are the only ones in the U.S. writing nuclear liability policies, and do not fall within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects in 10 CFR Part 140

Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Part 140, Code of Federal Regulations are contemplated.

The authority citation for this document is (Sec. 161 (b) and (i), Pub. L. 83-703, Stat. 948, 949 (42 U.S.C. 2201 (b), (i)); Sec. 170, Pub. L. 85-256; 71 Stat. 576, Pub. L. 94-197, 89 Stat. 1111 (42 U.S.C. 2210); Sec. 201, Pub. L. 93-438, as amended, 88 Stat. 1242, 89 Stat. 413 (42 U.S.C. 5841)).

PART 140—[AMENDED]

1. Section 140.15(a)(1) is revised to read as follows:

§ 140.15 Proof of financial protection.

(a)(1) Licensees who maintain financial protection in whole or in part in the form of liability insurance shall provide proof of financial protection that consists of a copy of the liability policy (or policies) together with a certificate by the insurers issuing the policy stating that the copy is a true copy of the currently effective policy issued to the licensee. The licensee may furnish proof of financial protection in the form of the nuclear energy liability insurance policy set forth in § 140.91 or in any other form acceptable to the Commission.

* * * * *

2. An introductory paragraph is added to § 140.91 to read as follows:

§ 140.91 Appendix A—Form of nuclear energy liability policy for facilities.

While the text of the policy which follows is exemplary of a contract acceptable to the Commission as evidence of the financial protection required of the licensee by section 170 of the Atomic Energy Act of 1954, as amended, variations on this text also will be considered by the Commission in determining whether the licensee meets the financial protection requirements of the Act. The full text of the policy is published solely for the purpose of completeness. Publication of this text should not be construed as a Commission endorsement of any particular provision pertaining solely to the business relationship between the insurers and the insureds or to any other matter not related to public protection.

* * * * *

Dated at Washington, D.C. this 13th day of October 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk.

Secretary of the Commission.

[FR Doc. 83-28491 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 146 and 150

[CGD 82-069a]

Casualty Reporting Requirements

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The costs of salvage, cleaning, gas freeing and drydocking were eliminated from the casualty reporting requirements contained in Title 46, Code of Federal Regulations (CFR) by a Coast Guard final rule (CGD 82-069) published on April 7, 1983 (48 FR 15125), effective May 9, 1983. Due to an oversight, identical revisions to the casualty reporting requirements contained in the Outer Continental Shelf Activities and Deepwater Port sections of 33 CFR were not included in that

rulemaking. The purpose of this proposed rulemaking is to amend these regulations in the same manner. This NPRM will have a negligible effect on the number of reports submitted.

DATE: Comments on the proposed regulations must be received on or before December 5, 1983.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44), (CGD 82-069a), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: LCDR C. V. Mosebach, Casualty Review Branch, (202) 426-1455.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking by submitting written views, data or arguments. Comments should include the name and address of the person making them, identify this notice (CGD 82-069a) and the specific section to which each comment applies, and give reasons for the comments. If an acknowledgement is desired, a stamped, self-addressed postcard or envelope should be enclosed.

The rules may be changed in light of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held if written requests for a hearing are received from interested persons having a genuine issue to raise and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: LCDR C. V. Mosebach, Project Manager, Office of Merchant Marine Safety, and LCDR W. B. Short, Project Attorney, Office of Chief Counsel.

Discussion of Proposed Rule

Since the costs of salvage, cleaning, gas freeing and drydocking can vary widely depending on the nature of the casualty, they tend to distort the basis for using a monetary criteria to establish a reporting threshold. Based on this fact, as set forth in Coast Guard final rule CGD 82-069, the casualty reporting requirements contained in Title 46, Code of Federal Regulations were amended by eliminating these costs. Due to an oversight, identical revisions to the casualty reporting requirements contained in Title 33, Code of Federal Regulations were not included in that rulemaking. This proposed rulemaking will amend the Outer Continental Shelf Activities and Deepwater Port regulations (33 CFR 146.30 and 150.711 respectively) in the same manner and provide for uniform reporting requirements throughout the marine industry. Statistics for 1981 indicate that only six casualties (approximately 0.10% of the casualty population) involved instances where this amendment could have eliminated the need for reporting. Consequently, this proposal will have a negligible effect on the number of reports submitted.

Regulatory Analysis

This proposed revision has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation proposal is considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). This proposed revision will have a negligible effect on the number of reports submitted. Therefore, in accordance with Section 605(b) of the Regulatory Flexibility Sct (94 Stat. 1164), it is certified that this rule, if pormulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 146

Continental shelf, Marine safety, and Reporting and recordkeeping requirements.

33 CFR Part 150

Deepwater ports, Oil imports, Environmental protection, Water pollution control and Reporting and recordkeeping requirements.

In consideration of the foregoing, Title 33, Code of Federal Regulations is proposed to be amended as follows:

PART 146—OUTER CONTINENTAL SHELF ACTIVITIES

1. Section 146.30(d) is revised to read as follows:

§ 146.30 Notice of casualty.

* * * * *

(d) Damage costs referred to in paragraphs (b)(3) and (b)(4) include the cost of labor and material to restore the property to the service condition which existed prior to the casualty, but do not include the cost of salvage, cleaning, gas freeing, drydocking or demurrage.

(Approved by the Office of Management and Budget under OMB Control No. 2115-0003)

PART 150—DEEPWATER PORTS

2. Section 150.711(a)(1) is revised to read as follows:

§ 150.711 Casualty or accident.

(a) * * *

(1) Any component of the deepwater port is hit by a vessel and damage to property is in excess of $25,000. Damage cost includes the cost of labor and material to restore the property to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, gas freeing, drydocking or demurrage.

* * * * *

(Approved by the Office of Management and Budget under OMB Control No. 2115-0003)

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 656 (43 U.S.C. 1348); 49 CFR 1.46(z). Secs. 10(a), 10(b), Pub. L. 93-627, 88 Stat. 2137-38 (33 U.S.C. 1509(a) and (b)); 49 CFR 1.46(s)

Dated: July 11, 1983.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-28296 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300079; PH-FRL 2454-1]

Polyethylene; Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that polyethylene be exempted from the requirement of a tolerance when used as an inert ingredient in pesticide formulations. This proposed regulation was requested by Petrolite Corp.

DATE: Written comments must be received on or before November 18, 1983.

ADDRESS: By mail, submit comments to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to:

Registration Support and Emergency Response Branch, Registration Division (TS–767), Environmental Protection Agency, Rm. 724A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:
By mail:
N. Bhushan Mandava, Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number:
Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7700).

SUPPLEMENTARY INFORMATION: At the request of Petrolite Corp., the Administrator proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for polyethylene as a coating agent used in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient:
Polyethylene.

Name and address of requestor:
Petrolite Corp., Tulsa, OK 74112.

Bases for approval: Polyethylene is the precursor to oxidized polyethylene, which conforms to 21 CFR 172.260 (direct food additive status). Olefinic polymers are widely used in food-packaging materials, and the Agency expects no toxicological and residue problems with this addition to 40 CFR 180.1001(c).

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number [OPP–300078]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 11, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Polyethylene, conforming to 21 CFR 177.1520(c).		Coating agent.
* * * * *		

FR Doc. 83–28454 Filed 10–18–83; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–300080; PH–FRL 2454–2]

Synthetic Petroleum Wax; Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that synthetic petroleum wax be exempted from the requirement of a tolerance when used as an inert ingredient preservative in pesticide formulations. This proposed regulation was requested by Petrolite Corp.

DATE: Written comments must be received on or before November 18, 1983.

ADDRESS: Written comments to:
Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to:
Registration Support and Emergency Response Branch, Registration Division (TS–767), Environmental Protection Agency, Rm. 724A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:
By mail:
N. Bhushan Mandava, Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number:
Registration Support and Emergency Response Branch, Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7700).

SUPPLEMENTARY INFORMATION: At the request of Petrolite Corp., the Administrator proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for synthetic petroleum wax as a coating agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosal dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Synthetic petroleum wax.

Name and address of requestor: Petrolite Corp., Tulsa, OK 74112.

Bases for approval: Synthetic petroleum wax is basically the same as the petroleum wax now cleared under 40 CFR 180.1001(c), except that it is derived from gaseous sources. Synthetic petroleum wax is cleared under 21 CFR 172.888 and meets the ultraviolet absorbency specifications as set forth under 21 CFR 172.888.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indication both the subject and the petition and document control number, [OPP-300079]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 11, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Synthetic petroleum wax conforms to 21 CFR 172.888.		Coating agent.
* * * * *		

[FR Doc. 83-28453 Filed 10-18-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2880

Rights-of-Way Under the Mineral Leasing Act; Procedures for Reimbursement of Costs

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend Part 2880 by inserting cost recovery provisions that are currently contained in 43 CFR 2800 and updating them to provide more adequately for the recovery by the United States of reasonable costs of processing and monitoring rights-of-way and temporary use permits granted pursuant to authority provided by section 28 of the Mineral Leasing Act of 1920, as amended and supplemented.

DATE: Comments should be sumitted by November 18, 1983. Comments postmarked or received after that date may not be considered in the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Theodore G. Bingham, (202) 343-5441

or

Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION: A proposed rulemaking amending the right-of-way cost recovery regulations in 43 CFR Part 2800 was published in the **Federal Register** on January 17, 1983 (48 FR 2110), with a 60-day comment period. The cost recovery regulations in part 2800 had been made applicable to rights-of-way issued under the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 et seq.), by a reference to them in section 2883.1-1 of Part 2880. This proposed rulemaking would insert the cost recovery provisions of Part 2800 in Part 2880 rather than incorporating them by reference. The proposed rulemaking is basically the same as the existing regulations in Part 2880 as amended by the proposed rulemaking of January 17, 1983, except that additions have been made in response to comments on the January 17, 1983, proposed rulemaking and the language has been conformed to Part 2880.

This proposed rulemaking is in response to a decision by the United States Court of Appeals for the Tenth

Circuit in a consolidated appeal of three cost recovery cases (*Nevada Power Company* v. *Watt* (81–1944); *Public Service of Colorado* v. *Watt* (81–2066) and (81–2143); and *Colorado-Ute Electric Association* v. *Watt* (82–1304)) that held that the Department of the Interior must consider the factors listed in section 304(b) of the Federal Land Policy and Management Act (43 U.S.C. 1734(b)) in establishing costs for processing right-of-way applications under title V of the Federal Land Policy and Management Act. The Court further held that the existing regulations establishing the procedure for said processing did not provide for such consideration.

The proposed rulemaking of January 17, 1983, was essentially an updating of the existing regulations in 43 CFR 2803.1–1. That section provides generally for cost reimbursement under the Federal Land Policy and Management Act. However, the provisions of § 2803.1–1 are incorporated by reference at § 2883.1–1 and, therefore, are applicable to cost recovery under section 28 of the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 185). The Mineral Leasing Act provides for cost reimbursement but does not require consideration of the specific factors listed in section 304(b) of the Federal Land Policy and Management Act as shown below:

"Reimbursement of Costs"

"(1) The applicant for a right-of-way or permit shall reimburse the United States for administrative and other costs incurred in processing the application, and the holder of a right-of-way or permit shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance and termination of any pipeline and related facilities on such right-of-way or permit area and shall pay annually in advance the fair market rental value of the right-of-way or permit, as determined by the Secretary."

Accordingly, the Tenth Circuit decision does not apply to regulations promulgated under the Mineral Leasing Act.

The Department of the Interior has decided to defer finalizing the proposed rulemaking of January 17, 1983, as it applies to the Federal Land Policy and Management Act, pending an analysis of the regulations in light of the Tenth Circuit decision. However, since cost reimbursement regulations under the Mineral Leasing Law have not been invalidated, the Department of the Interior will proceed with the promulgation of cost recovery procedures for rights-of-way granted under that Act. This proposed rulemaking carries out that determination. For the convenience of those members of the public who may wish to comment on this proposed rulemaking and because the comment period on this proposed rulemaking is limited to 30 days, there is included a discussion of the comments on the proposed rulemaking of January 17, 1983, which are applicable to cost recovery for rights-of-way issued under the Mineral Leasing Act.

During the comment period, comments were received and considered from 61 sources, 36 from companies, 15 from Federal agencies and 10 from associations. The non-Federal comments were nearly unanimous in objecting to the imposition of cost recovery for grants of rights-of-way or temporary use permits across Federal lands. The issue of cost recovery has been raised each time the Department of the Interior has issued a rulemaking on right-of-way grants and has been opposed by the users of the Federal lands for right-of-way purposes. The position of the Department of the Interior is that section 28 of the Mineral Leasing Act, requires the Secretary of the Interior to collect administrative and other costs incurred in the processing of an application for a right-of-way grant or temporary use permit.

Several comments questioned the statement in the preamble that the increased charges made by the proposed rulemaking will not substantially increase the payments made by right-of-way applicants for processing applications and monitoring grants. The amendments contained in the proposed rulemaking of January 17, 1983, and adopted by this proposed rulemaking will more equitably distribute the cost of processing applications among applicants and will reduce the cost borne by the general taxpayer. The changes made by the proposed rulemaking will increase the funds recovered by the Bureau of Land Management from processing of applications for oil and gas rights-of-way and temporary use permits by approximately $1 million annually and will increase the fees paid by some applicants. While this amount may seem large, it is insignificant when compared to the total cost of the facilities constructed on Federal lands for oil and gas right-of-way purposes.

Several comments suggested that rather than proceeding with the changes made by the proposed rulemaking, the better option would be to provide a reduction in the cost of processing applications and monitoring grants. The actions taken by the Department of the Interior over the past few months to decentralize the granting authority, to develop more efficient appraisal techniques, to reduce mapping requirements and the other information required to be submitted with an application and to provide greater flexibility in the application of casual use are examples of actions taken to reduce processing costs. The actions included in each of the categories by this proposed rulemaking are those needed to comply with the statutory requirements of the several laws in addition to the Mineral Leasing Act of 1920 which control use of Federal lands for right-of-way purposes.

Several comments objected to having to pay processing and monitoring costs and annual rental because it results in a double payment. The comments argued that in private transactions, the annual rental includes the cost of actions needed to complete the transaction. The Mineral Leasing Act requires the payment of fair market value for the use of Federal lands and the annual rental reflects that requirement. In addition, the Act authorizes the Secretary of the Interior to promulgate regulations for collecting costs incurred in processing and monitoring an application/grant for the use of Federal lands. This proposed rulemaking is designed to recover such costs.

Many of the comments suggested that the fee schedule should be included in the cost recovery regulations and published in the Code of Federal Regulations, rather than being made part of the Bureau of Land Management Manual and directives. The final rulemaking has not adopted this suggestion for two reasons. First, the Bureau Manual and directives can be updated more readily. Second, it is not necessary for the fee schedule to be in the Code of Federal Regulations. The fee schedule will be subject to the requirements of the Administrative Procedures Act when it is changed, giving the public notice of any changes and an opportunity to comment on such schedule.

Some of the comments questioned the basis of the fee schedule that was published in the **Federal Register** of January 17, 1983 (48 FR 2113), and requested that the fee schedule and its development be fully explained. In compliance with these requests, the following is offered:

The right-of-way fee schedule was developed by a Bureau of Land Management task force consisting of employees of the Bureau with expertise in the processing and monitoring of right-of-way cases, budgeting and cost accounting. The task force analyzed

data from a representative sample of actual right-of-way cases and examined several demographic variables which might influence cost, including location and area of right-of-way or temporary use area. The analysis led to the conclusion that case processing requirements (e.g., appraisal, field examination, etc.), rather than right-of-way or temporary use area demographics (e.g., purpose, location of right-of-way or area, etc.) determine costs. As a result of the analysis by the team, six right-of-way cost categories were established, each defined in terms of the processing actions that will be required.

The fee computation for each of the established categories was based on the estimated work effort required to accomplish the processing actions for a typical right-of-way in that category. Each processing action was examined to: (1) identify what is done (e.g., short form appraisal); (2) where it is done (e.g., field or office); (3) who does the action (e.g., position titles and G.S. grade levels); and (4) how long it takes to do the action (e.g., hours). The Bureau of Land Management's cost of each action includes personnel costs, including fringe benefits, vehicle usage cost (if travel is required) and allowable indirect costs. Personnel costs were based on the hourly wage of the salary level of the employee who typically performs the action (step 5 which is the middle point of each pay grade); vehicle usage costs were based on a computed per mile cost for a mid-size General Services Administration vehicle (derived from GSA Transportation and Motor Vehicles rate bulletin); indirect costs were based on the Bureauwide indirect cost rate used for all cost recoverable work, such rate being computed annually to reflect any changes in cost. The total cost of all actions required for a specific category of application or grant becomes the nonrefundable fee for that category.

As was done in connection with other rulemakings involving cost recovery, several of the comments urged that the rulemaking include provision for audit of the Bureau of Land Management's cost recovery accounts by an applicant/holder. This proposed rulemaking does not include such a provision because it is not needed. Applicants/holders whose projects are determined to fall within category VI who dispute payments made under existing cost recovery regulations are furnished information showing how the Bureau has used the payments. An audit process is not needed for categories I through V because any appeal of the authorized officer's determination will question the determination that a certain level of work is required, not how the payment will be expended.

The largest number of comments raised the point that the descriptions or definitions of the categories contained in the proposed rulemaking were insufficient to enable an applicant or the authorized officer to accurately and consistently determine the appropriate category for the application. In response to the comments, the category descriptions and definitions have been carefully reviewed to determine if changes were needed. The review was conducted within two constraints. First, the many different types of Federal lands for which applications are made for oil and gas pipeline rights-of-way require that the descriptions be in general terms. Second, the entire system of cost recovery categories must be based on a progressively increasing work requirement. For example, a category II application will require more work than a category I application. Similar relationships exist for all categories I through V. The category descriptions contained in the proposed rulemaking of January 17, 1983, and this proposed rulemaking are sufficiently specific to allow a determination as to which category is appropriate for an application.

Another group of comments expressed the opinion that the definitions were too narrow and suggested broadening them so that category I would include additional new right-of-way grants on an existing right-of-way grant. The definition of category I contained in the proposed rulemaking of January 17, 1983, and this proposed rulemaking includes an application for a right-of-way on lands included in an existing right-of-way grant. Similarly, category II, when read in conjunction with Departmental manual 516 (categorical exclusions), provides that a previously prepared environmental assessment for a right-of-way be used to qualify an application for this category.

Several comments suggested that the length of the right-of-way or the real size of the area of public lands covered by the application should be made an element of the category descriptions. These suggestions cited the apparent inequity of placing an application for a right-of way of a hundred feet in the same category as an application for several miles. The analysis of data upon which the categories are based showed that in most cases the length or size of the right-of-way have no appreciable effect on the work required to process the application or monitor the grant. These suggestions did not result in any changes in this proposed rulemaking.

Several of the comments observed that the applicant may prepare or have prepared an environmental assessment, an environment impact statement or other studies for submission to the Bureau of Land Management for use in processing an application and that the proposed rulemaking of January 17, 1983, did not specifically allow this activity. Neither the proposed rulemaking of January 17, 1983, nor this proposed rulemaking prohibit the authorized officer from considering the fact that the applicant has prepared or will prepare National Environmental Policy Act compliance and other documents when making the category determination for the application. Applicants who wish to prepare environmental documents should discuss such preparation and the content of the documents during pre-application activities.

Several of the comments pointed out that unless a process other than a full appraisal of the lands covered by the application were used, the fact that an appraisal was necessary would require an application to be placed in category VI. This observation is correct. However, the Bureau of Land Management now uses and is further expanding use of modified appraisal processes for use in determining rental of Federal lands. These modified appraisal procedures do not require preparation of a full appraisal. The use of these appraisal processes will allow most applications to be placed in categories I through V.

One comment wanted to know which category would cover his/her application. This question cannot be answered hypothetically. The only way to determine which category is appropriate for a specific application is to review the application and make a determination based on the activities which will be required. A good time for such review is during pre-application activity.

Several of the comments observed that the determination of the proper category for an application may be time-consuming and could significantly delay action on the application. Each application will be processed expeditiously by the authorized officer. Each Area and District office has personnel who are familiar with the Federal lands and resources of the area or District so that they are able to make a timely and correct determination of the appropriate category, usually from their personal knowledge and from information in their files. The discussion and review during pre-application

activity will provide information that the staff can use in making the category determination.

Two comments suggested that any rulemaking should require the authorized officer to make a commitment as to the date a final determination will be made on the application at the same time the decision is made on the category for the application. Because of uncertainties beyond the control of anyone that can arise during the processing of an application, it would be virtually impossible to require such a commitment and this proposed rulemaking does not contain such language. However, an applicant should discuss the timing of the need for a right-of-way grant during pre-application activity. To ascertain whether completion by a certain date can be anticipated.

Many of the comments objected to the requirement in the proposed rulemaking of January 17, 1983, making the payment of the fee a prerequisite to processing the application, especially in those cases where the applicant appeals the category determination. The comments noted that the delays inherent in the administrative appeals process would unreasonably delay the issuance of a right-of-way grant or temporary use permit and would in most instances preclude any appeal. In recognition of this situation, this proposed rulemaking has been amended to clarify the point that once the required payment is made, the application will be processed, the grant or permit issued and a refund will be made if ordered by decision on the appeal.

Several comments suggested that the language in § 2803.1–1(a)(4)(ii) of the proposed rulemaking of January 17, 1983, (§ 2883.1–1(a)(4)(ii) of this proposed rulemaking) should be changed to provide more flexibility to change the category determination, either up or down. The language of the proposed rulemaking provides adequate authority to change the category determination in those instances when it is determined to be in a category other than category VI. In all other instances, if, for example, the decision is that the application falls within category III and it in fact requires the work for category IV, the extra cost will be borne by the Bureau of Land Management. Only in those cases where, after the initial category determination, it is found that the application processing clearly falls within category VI will the category determination be changed. Any other provision for change of a category would require preparation of detailed cost analysis records for every application, a process that would add additional cost to the processing of applications, and would result in greater costs to applicants. The suggestions have not been adopted by this proposed rulemaking.

A few comments observed that the language of § 2803.1–1(a)(5) of the proposed rulemaking of January 17, 1983 (§ 2883.1–1(a)(5) of this proposed rulemaking) was confusing and recommended that it be clarified. This proposed rulemaking adopts clarification language.

Finally, several comments questioned whether the work required to monitor a right-of-way grant or temporary use permit is directly related to the work required to process the application for that grant or permit. In a few instances such a direct relationship will not be present. However, the past experience of the Bureau of Land Management shows that such a relationship does exist for most grants or permits. The exceptions to the general rule are not sufficient to warrant a change in this area, and this proposed rulemaking adopts the language of the proposed rulemaking of January 17, 1983.

The principal author of this proposed rulemaking is Sheldon Weil, Division of Rights-of-way, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and 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.).

The changes made by the final rulemaking will not, when the payments for all right-of-way and temporary use applications are considered, substantially increase the payments made by right-of-way applicants for the processing and monitoring of their applications. The changes adopted by this proposed rulemaking will make the reimbursement of costs procedures fairer and will recover for the United States a greater portion of the costs incurred in the processing of right-of-way grant and temporary use permit applications.

The changes made by this proposed rulemaking will be equally applicable to all entities that make an application to the Bureau of Land Management for used of the Federal lands for oil or gas rights-of-way or temporary use permits.

The information collection requirements in this proposed rulemaking have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

List of Subjects in 43 CFR Part 2880

Administrative practice and procedure, Common carriers, Oil and gas industry, Pipelines, Public lands—rights-of-way

PART 2880—[AMENDED]

Under the authority of section 28 of the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 185), it is proposed to amend Part 2880, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

§ 2882.1 [Amended]

1. Section 2882.1(c) is amended by removing the citation "§ 2803.1–1" and replacing it with the citation "§ 2883.1–1".

2. Subpart 2883 is amended by revising § 2883.1–1 to read:

§ 2883.1–1 Cost reimbursement.

(a)(1) An applicant for a right-of-way grant or a temporary use permit shall reimburse the United States for administrative and other costs incurred by the United States in processing the application, including the preparation of reports and statements pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), before the right-of-way grant or temporary use permit shall be issued under the regulations of this title.

(2) The regulations contained in this subpart do not apply to State or local governments or agencies or instrumentalities thereof where the Federal lands are used for governmental purposes and such lands and resources continue to serve the general public, except as to right-of-way grants or temporary use permits issued to State or local governments or agencies or instrumentalities thereof or a municipal utility or cooperative whose principal source of revenue is derived from charges levied on customers for services rendered that are similar to services rendered by a profit making corporation or business enterprise.

(3) The applicant shall submit with each application a nonreturnable application processing payment in the amount required by a schedule of fees for this purpose which shall be established and maintained by the Director and may be adjusted by the Director from time to time to reflect changes in costs. The fee schedule shall be incorporated in the Bureau Manual.

published periodically in the Federal Register and otherwise made generally available to the public. The fees required shall be based on a review of the use of the Federal lands for which the application is made, the resources affected and the complexity and costs to the United States for processing required by an application for a right-of-way grant and shall be established according to the following general categories:

(i) *Category I.* An application for a right-of-way grant or temporary use permit to authorize a use of an existing facility on Federal lands for which compliance with the National Environmental Policy Act is met through a categorical exclusion under Chapter 6, Part 516 of the Departmental Manual; no field examination of the lands affected by the application is required; and determination of rental is made through use of appraisal schedules previously prepared by the Bureau;

(ii) *Category II.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which compliance with the National Environmental Policy Act is met through either a categorical exclusion under Chapter 6, Part 516 of the Departmental Manual or a blanket, areawide or programmatic environmental assessment and finding of no significant impact; one general field examination is required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(iii) *Category III.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which compliance with the National Environmental Policy Act requires either preparation of a general environmental assessment from information and data readily available from existing Bureau documents or for which a previously existing environmental assessment prepared by the Bureau can be readily updated; one field examination of the lands affected; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(iv) *Category IV.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which compliance with the National Environmental Policy Act requires one or more assessments of specific resources, but does not require the gathering of original data in preparation of the environmental assessment; no more than two field examinations of the lands affected by the application are required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(v) *Category V.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which compliance with the National Environmental Policy Act requires one or more assessments of specific resources and the gathering of original data and supplementary documentation in preparation of the environmental assessment; no more than two field examinations of the lands affected by the application are required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(vi) *Category VI.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which processing activities will be in excess of those listed under paragraph (a)(3)(v) of this section.

(4)(i) The authorized officer shall determine the appropriate category and required application processing fee prior to acceptance of an application. A record of the authorized officer's category determination shall be made and given to the applicant, and the decision is a final decision for purposes of appeal under § 2884.1 of this title. Notwithstanding the pendency of such appeal, an application shall not be accepted for processing without payment of the fee determined by the authorized officer, and where such payment is made, the application may be processed and, if proper, the grant or permit issued. The authorized officer shall make any refund directed by the appeal decision.

(ii) During the processing of an application, the authorized officer may change a category determination to place an application in Category VI at any time that it is determined that the application requires preparation of an environmental impact statement. A record of change in category determination under this paragraph shall be made, and the decision is appealable in the same manner as an original category determination made under paragraph (a)(4)(i) of this section.

(5)(i) An applicant whose application is determined to be in Category VI shall, in addition to the nonrefundable application processing payment, reimburse the full actual administrative and other costs of processing the application. The nonrefundable application processing payment required under the fee schedule shall be credited toward the total cost reimbursement obligation of such applicant. When such an application is filed, the authorized officer shall estimate the costs expected to be incurred in processing the application and require the applicant to make periodic payments of the estimated reimbursable costs prior to such costs being incurred by the United States.

(ii) If the payments required by paragraph (a)(5)(i) of this section exceed the actual costs to the United States, the authorized officer may adjust the billing to reflect the overpayment, or make a refund from applicable funds under the authority of 43 U.S.C. 1734. An applicant may not set off or otherwise deduct any debt due to it or any sum claimed to be owed it by the United States without the prior written approval of the authorized officer.

(iii) Prior to issuance of a right-of-way grant or temporary use permit, an applicant subject to paragraph (a)(5)(i) of this section shall pay such additional amounts as are necessary to reimburse the United States for any costs which exceed the payments required by paragraph (a)(5)(i) of this section.

(iv) An applicant subject to paragraph (a)(5)(i) of this section whose application is denied is responsible for costs incurred by the United States in processing the application, and such amounts as have not been paid in accordance with paragraph (a)(5)(i) of this section are due within 30 days of receipt of notice from the authorized officer of the amount due.

(v) An applicant subject to paragraph (a)(5)(i) of this section who withdraws an application before a decision is reached is responsible for costs incurred by the United States in processing the application up to the date the authorized officer receives written notice of the withdrawal, and for costs subsequently incurred in terminating the application review process. Such amounts as have not been paid in accordance with paragraph (a)(5)(i) of this section are due within 30 days of receipt of notice from the authorized officer of the amount due.

(6) When 2 or more applications for right-of-way grants are filed which the authorized officer determines to be in competition with each other, each applicant shall reimburse the United States as required by paragraph (a)(3) of this section. If reimbursement of actual costs is required under paragraph (a)(5)(i) of this section, each applicant shall be responsible for the costs identifiable with his/her application. Costs that are not readily identifiable with one of the applications, such as costs for portions of an environmental

impact statement that relate to all of the applications generally, shall be paid by each of the applicants in equal shares.

(7) When, through partnership, joint venture or other business arrangement, more than one person, partnership, corporation, association or other entity apply together for a right-of-way grant or temporary use permit, each such applicant shall be jointly and severally liable for costs under this section.

(8) When 2 or more noncompeting applications for right-of-way grants are received for what, in the judgment of the authorized officer, is one right-of-way system, all of the applicants shall be jointly and severally liable for costs under this section for the entire system, subject, however, to the provisions of paragraph (a)(7) of this section.

(b)(1) After issuance of a right-of-way grant or temporary use permit for which a fee was assessed under paragraph (a) of this section, the holder thereof shall reimburse the United States for costs incurred by the United States in monitoring the construction, operation, maintenance and termination of authorized facilities on the right-of-way or permit area, and for protection and rehabilitation of the lands involved.

(2) The holder shall submit a monitoring cost payment along with the written acceptance of the terms and conditions of the grant or permit pursuant to § 2882.3(1) of this title. The amount of the required payment shall be determined by the schedule of fees described in paragraph (a)(3) of this section. Acceptance of the terms and conditions of the grant or permit shall not be effective unless the required payment is made.

(3) A holder whose application was determined to be in Category VI for application processing purposes shall reimburse the actual administrative and other costs of monitoring the grant or permit. The monitoring payment required under the fee schedule shall be credited toward the total monitoring cost reimbursement obligation or such holder. When such a grant or permit is issued, the authorized officer shall estimate the costs expected to be incurred in monitoring the grant or permit and require the holder to make periodic payments of the estimated reimburseable costs prior to such costs being incurrred by the United States.

(4) If the payments required by paragraph (b)(3) of this section exceed the actual costs to the United States, the authorized officer may adjust the next billing to reflect the overpayment, or make a refund from applicable funds under the authority of 43 U.S.C. 1734. A holder may not set off or otherwise deduct any debt due to it or any sum claimed to be owed it by the United States without the prior written approval of the authorized officer.

(5) Following termination of a right-of-way grant or temporary use permit, any grantee or permittee that was determined to be in Category VI shall pay such additional amounts as are necessary to reimburse the United States for any costs which exceed the payments required by paragraph (b)(3) of this section.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-28508 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172 and 173

[Docket No. HM-145E; Advance Notice]

Reportable Quantity of Hazardous Substance; Extension of Time for Public Comments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Advance notice of proposed rulemaking; extension of time for public comment.

SUMMARY: MTB published an advance notice in the **Federal Register** on August 8, 1983 (Docket HM-145E; 48 FR 35965), concerning reportable quantities of hazardous substances. Several requests have been received for an extension of the public comment period. This Notice extends the time for public comment from October 12, 1983, to November 16, 1983.

DATE: Comments must be received no later than November 16, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426-2075.

Issued in Washington, D.C. on October 12, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-28457 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Rulemaking Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of rulemaking petition.

SUMMARY: This notice denies a petition filed by Mr. William Mahin to amend Federal Motor Vehicle Safety Standard (FMVSS) 111, *Rearview Mirrors*, to permit the use of a mirror system he designed for original equipment applications on passenger cars and trucks. Since NHTSA lacks sufficient data on the potential safety impacts of the use of this new mirror design and since Mr. Mahin did not provide such data himself, the agency is denying this petition. However, the agency plans to evaluate this mirror further as part of a future mirror research project, and will reconsider amending FMVSS 111 after the completion of that research.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-2153).

SUPPLEMENTARY INFORMATION: On June 4, 1982, Mr. William Mahin petitioned NHTSA to amend FMVSS 111 to permit the use of a mirror system he designed. FMVSS 111 currently requires that exterior mirrors must be planer (flat), except that spherically convex mirrors may be used on the passenger side of passenger cars and of trucks, multipurpose passenger vehicles, and buses other than school buses, with a gross vehicle weight rating of 10,000 pounds or less. The reason for the prohibition against the use of certain nonplanar mirror surfaces is that such surfaces may produce distorted images which could mislead drivers as to the distance to and velocity of objects viewed in the mirror. However, convex mirrors do have the advantage of providing a wider field of view than a plane mirror of similar size. Mr. Mahin's design is planar nearest the driver's eye and curves logarithmically toward the outer edge of the mirror.

Before NHTSA decides to initiate rulemaking to amend FMVSS 111 as requested by Mr. Mahin, the agency believes it should obtain information sufficient to permit it to conclude that the Mahin mirror performs at least as

well as current plane mirrors in providing drivers an adequate field of view with minimal image distortion. NHTSA lacks sufficient data on the performance of Mr. Mahin's mirror and the petitioner did not provide such data himself. Therefore, the agency is denying the Mahin petition.

This is not to say that the Mahin mirror is necessarily less safe than current systems, although a limited agency evaluation of the Mahin mirror raised some concerns as to the mirror's optical distortion. NHTSA plans to evaluate this mirror further (along with certain other mirrors) as part of a future mirror research project. On the completion of that project, the agency will consider again whether to amend FMVSS 111.

(Sec. 124, Pub. L. 89-492, 80 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on October 13, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-28459 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 14, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number (s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

REVISED

• Farmers Home Administration
Request for FmHA Services
FmHa 1910–1
On Occasion
Individuals and Farms: 175,000 responses; 87,500 hours not applicable under 3504(h)
Mike Chiavetta (202) 382–1658
Reinstatement

• Farmer Home Administration
Estimate and Certificate of Actuarial Cost
FmHA 1924–13
On Occasion
Businesses: 1,200 responses; 2,400 hours not applicable under 3504(h)
Tom Maxwell (202) 382–1620

Extension

• Forest Service
Technical Data—Electronic Type Land Use
On Occasion
All: 100 responses; 25 hours not applicable under 3504(h)
James Dear (703) 235–2410

New

• Food and Nutrition Service
USDA School Programs Participation Model Update Study
One-Time Study
Individuals or Households, State or Local Governments: 13,903 responses; 11,013 hours not applicable under 3504(h)
Steven Gale (703) 756–3115

Dewayne Hamilton,
Acting Department Clearance Officer.

[FR Doc. 83-28418 Filed 10-18-83; 8:45 am]
BILLING CODE 3410-01-M

Rural Electrification Administration

Wolverine Power Supply Cooperative, Inc., Big Rapids, Michigan

AGENCY: Rural Electrification Administration (REA).

ACTION: Notice of: Public Meeting in Traverse City, Michigan.

SUMMARY: Pursuant to Section 4 of the Settlement Agreement, REA is required to hold a public meeting in Traverse City, Michigan in conjunction with a pending loan application.

FOR FURTHER INFORMATION CONTACT: Mr. Merle J. Beachy, Chief, Distribution and Transmission Engineering Branch, Northeast Area—Electric, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1420.

Dated: October 13, 1983.

Jack Van Mark,
Acting Administrator.

Notice Regarding Traverse City Public Meeting

Pursuant to the Consent Judgment issued on August 8, 1983, by the Honorable Douglas W. Hillman in Rodney A. Bailey, *et al,* Plaintiffs, v. Rural Electrification Administration (REA), U.S. Department of Agriculture, *et al,* Defendents, United States District Court, W.D. Michigan, Southern Division, notice is hereby given of a public meeting conducted by the Rural Electrification Administration in conjunction with a pending loan application by Wolverine Power Supply Cooperative to finance its continuing ownership interest in the Enrico Fermi Unit #2 Power Plant presently under construction by Detroit Edison Company. Included in the pending loan application and incidental to proposed additional financing for the power plant is a request for loan funds to purchase part of a transmission line presently owned by Consumers Power Company.

The purpose of the meeting is to take oral and/or written statements from the parties to this proceeding and the public concerning: (1) The environmental impact of any past or pending or the next loan guarantee application and proposed approval; (2) any unavoidable adverse environmental effects of such action or proposed action; (3) alternatives to such action or proposed action; (4) short-term uses of man's environment versus maintenance and enhancement of long-term productivity with respect to such actions or proposed actions; (5) irreversible and irretrievable commitments of resources involved in such actions or proposed action; (6) the now applicable REA guidelines with respect to the National Environmental Policy Act (42 U.S.C. 4321 *et seq.)* in relation to the next or pending application for a further REA loan

guarantee to the Wolverine Power Supply Cooperative, Inc.

Place of Meeting: Auditorium, Traverse City Senior High School, 1150 Milliken Drive, Traverse City, MI 49684.

Date of Meeting: November 9, 1983.

Time of Meeting: 7:00 p.m. (e.s.t.).

Chairperson: Merle J. Beachy.

Any person desiring to submit a written statement for inclusion in the meeting record may do so at or prior to the meeting. Written statements may also be submitted to REA not later than December 9, 1983. Unless entered at the meeting, written statements should be mailed to Merle J. Beachy, Chief, Distribution & Transmission Engineering Branch, Northeast Area-Electric, Rural Electrification Administration, Washington, D.C. 20250.

Any written and oral statements introduced into the public record of the meeting which concern past actions of the REA, or past loan or loan guarantees pertaining to the financing of participation by Wolverine Power Supply Coorperative (and its predecessors Northern Michigan Electric Cooperative, Inc. and Wolverine Electric Cooperative, Inc.) in the Enrico Fermi Unit #2 Power Plant shall be accepted for information purposes only and shall not affect the validity of any such loans or related federal action.

Not later than December 9, 1983, written inquiries relevant to the purposes of the November 9, 1983 meeting may be submitted to REA for comment and response. Comments or responses by REA may be provided at the November 9, 1983 meeting or furnished in writing on or before February 8, 1984. Written questions by any person shall be relevant to the scope and purposes of said meeting.

Dated: October 13, 1983.

[FR Doc. 83-28480 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Southern Pines Reservoir Park RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an evironmental impact statement is not being prepared for the Southern Pines Reservior Part RC&D Measure, Moore County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for converting a town reservior into a water-based recreation park. The planned works of improvement include installing a boat launch and dock, maintenance building, family picnic areas and tot lot, swimming beach and bathhouse, multipurpose court, bike and jogging trail and bridges, toilet facilities, entrance control booth, access roads, and parking lots. These improvements will provide a needed public recreational facility in a rapidly growing area. A 3-phase installation is planned.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 3, 1983.

Coy A. Garrett,

State Conservationist.

[FR Doc. 83-28359 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Members of the Bureau of the Census Performance Review Board

The following individuals will serve as members of the Bureau of the Census Performance Review Board:

(1) Barbara Bailar;
(2) O. Bryant Benton, Jr.;
(3) Roger H. Bugenhagen;
(4) William P. Butz;
(5) Jerome A. Mark;
(6) Roland H. Moore; and
(7) Katherine K. Wallman.

Dated: October 14, 1983.

C. L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 83-28436 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 228]

Resolution and Order Approving the Reorganization of Foreign-Trade Zone 18, San Jose, California, and Establishment of a Subzone; Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of San Jose, California, grantee of Foreign-Trade Zone 18, filed with the Foreign-Trade Zones Board (the Board) on July 8, 1983, requesting authority to reoganize its zone project in San Jose, within the San Francisco-Oakland Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the reloaction of the general-purpose zone facility, approves the special-purpose subzone for Olympus Corporation, and approves a one-year extension of zone status for Metal Processing Industries, Inc.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Authority To Reorganize Foreign-Trade Zone 18, and Establish a Subzone in San Jose, California

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to

expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the City of San Jose, California, grantee of Foreign-Trade Zone No. 18, has made application (filed July 8, 1983, Docket 22–83, 48 FR 32617, July 18, 1983), to the Board for authority to reorganize its zone project by relocating the public zone facility, continuing zone status for Olympus Corporation, and establishing zone status as an annex for Metal Processing Industries, Inc. (MPI). All facilities are located in San Jose, California, within the San Francisco/Oakland Customs port of entry.

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied if approval of zone status for MPI were limited to one year;

Now, Therefore, in accordance with the application filed July 8, 1983, the board hereby authorizes the reorganization of Foreign-Trade Zone 18 in San Jose, California, to include relocation of public warehousing facilities, the establishment of a subzone for Olympus Corporation designated on the records of the Board as Foreign-Trade Subzone No. 18A, and a one-year extension of zone status for the MPI site, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the new zone site and subzones shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade zone subzones in the performance of their official duties.

The grant shall not be construced to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C., this 13th day of October 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-28497 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Preliminary Determination of Sales at Less Than Fair Value; Color Television Receivers From Korea

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value; color television receivers from Korea.

SUMMARY: The Department of Commerce ("the Department") has preliminarily determined that color television receivers from Korea are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission ("ITC") of our determination, and we have directed the U.S. Customs Service to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margin described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 23, 1983.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman or William L. Matthews, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

As provided for in section 733 of the Tariff Act of 1930 ("the Tariff Act"), we have preliminarily determined that there is a reasonable basis to believe or suspect that color television receivers from Korea are being, or are likely to be, sold in the United States at less than fair value.

We have found that the dumping margins ranged from zero percent to 9.53 percent. The overall weighted-average margin on all sales compared is 5.31 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 23, 1983.

Case History

On May 2, 1983, we received a petition from the Independent Radionic Workers of America, the International Brotherhood of Electrical Workers, the International Union of Electrical, Radio & Machine Workers, and the Industrial Union Department, AFL–CIO, filed on behalf of the U.S. industry producing color television receivers. In accordance with the filing requirements of section 353.36 of the Commerce Regulations, the petition alleged that color television receivers from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 27, 1983 (48 FR 23879–80). The ITC subsequently found, on June 16, 1983, that there is a reasonable indication that imports of color television receivers are materially injuring, or are threatening to materially injure, a U.S. industry.

The petition alleged that Samsung Electronics Co., Ltd., Gold Star Co., Ltd., and Taihan Electric Wire Co., Ltd. produce color television receivers for export to the United States. In addition to the companies named in the petition, we are also examining sales by Korea Electronics Co., Ltd. ("KEC") and Anam Electronic Industrial Co., Ltd.

On September 20, 1983, the petitioners amended the petition to allege that "critical circumstances," as defined in section 733(e) of the Tariff Act, exist.

Scope of Investigation

The merchandise covered by this investigation is color television receivers, complete or incomplete. This investigation is intended to cover all color televison receivers regardless of tariff classifications. The merchandise is currently classifiable under item numbers 685.1125, 685.1126, 685.1127, 685.1128, 685.1129, 685.1135, 685.1144, 685.1148, 685.1455, 685.1456, 685.1458, 685.1460, and 685.1463 of the Tariff Schedules of the United States Annotated.

The five manufacturers under investigation accounted for virtually all known color television receivers exported from Korea to the United States during the period of the investigation.

The investigation covers the period from July 1, 1982 through March 31, 1983 for United States price transactions and generally April 1, 1982 through March 31, 1983 for foreign market transactions.

United States Price

As provided for in section 722 of the Tariff Act, we have preliminarily used the purchase price as the United States price for sales by Anam, KEC, and certain sales by Samsung and Gold Star because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We have preliminarily used exporter's sales price for other sales by Samsung and Gold Star, and for all sales by Taihan.

We calculated purchase price based on the packed f.o.b. Korean port or plant price to unrelated purchasers in the United States. We made deductions from that price, where appropriate, for foreign inland freight, Korean customs clearing fees, forwarding expenses, wharfage expenses, export license fees, foreign brokerage and handling charges.

We calculated the exporter's sales price by deducting from the gross packed price to unrelated purchasers in the United States amounts for the following items, where appropriate: Korean customs clearing fees, export license fees, wharfage, forwarding, foreign brokerage, foreign inland freight, ocean freight, marine insurance, U.S. Customs duties, U.S. brokerage, U.S. inland freight, commissions to unrelated parties, warranty expenses, credit expenses, advertising expenses, discounts, rebates, and indirect selling expenses. In making deductions from the gross price, we made two additional deductions for Samsung, which the company did not consider relevant to sales of color television receivers. We deducted interest expenses incurred during the period which related to a lack of working capital and those related to an overall deficit. These expenses are included in the category of indirect selling expenses.

When comparing to home market price, we accounted for taxes imposed in Korea but rebated or not collected by reason of the exportation of the merchandise to the United States.

Fair Value

We have preliminarily determined that each of the companies under investigation sold sufficient quantities of such or similar merchandise during the period of investigation in Korea. We therefore have chosen to use those sales to unrelated purchasers in Korea as our basis for foreign market value.

We calculated the home market price by deducting from the gross, packed price the following items, where appropriate: freight and discounts. We made adjustments, where appropriate, for differences in the merchandise, quality and testing expenses, commissions to unrelated parties, packing costs, warranty expenses, royalty expenses, rebates, credit expenses, advertising, sales promotion, and technical services expenses.

In addition, when comparing the exporter's sales price to the home market price, we deducted indirect selling expenses from the home market price but limited the deduction by the amount of the U.S. expenses. We based adjustments for differences in merchandise for all companies on differences in costs of material, labor, and direct factory overhead. We disregarded sales by all companies to Korea military PXs because we determined that they were not made in the normal course of trade as sales to other home market customers.

In making adjustments to the foreign market value, we made several changes to the figures offered by the respondents. We adjusted the amount of Samsung's rebate claim. The claim was composed of several different rebates, presented to us as a single weighted-average percentage over all models. We were able to disaggregate the data and, where rebates were granted on a model-specific, or screen-size basis, we applied them accordingly. Where rebates were granted on a geographic basis or to encourage sales to specific customers of Samsung's customers, we used a weighted-average.

We have preliminarily not allowed certain portions of Samsung's advertising and sales promotion claims. Some of Samsung's claims for multiproduct advertising and sales promotion were allocated on the basis of total sales value of the various products appearing in the advertisement. The result is an amount that is unrelated to the cost of the color television portion of the advertisement of sales promotion. We will reconsider allowing a portion of this claim if Samsung can demonstrate the actual cost incurred on advertising and promoting sales of color television receivers in the multiproduct advertisements.

For Gold Star we have disallowed a claimed adjustment for differences in the levels of trade between the U.S. and Korean markets. Gold Star sells color television receivers to small and medium-size U.S. retailers, U.S. mass merchandisers who sell at retail, to U.S. private label purchasers who resell to retailers in the United States market, and to retailers in the Korean market. It based its claim for a level of trade adjustment on the differences in prices of audio electronic products sold to the retail and distributor levels in its home market. We cannot make a level of trade adjustment because the basis by Gold Star does not accurately quantify the difference specifically for color television receivers.

We have also disallowed Gold Star's claim for the value of its trademark. Gold Star sells under its own brand name and to private label purchasers in the United States but sells only under its own brand name in the Korean market. Gold Star claims that, if it did sell to private label purchasers in its home market, the resales of those sets by the private label resellers could not be made at prices as high as those that Gold Star could command for identical sets under it own name because Gold Star's reputation is high. Gold Star based its claim on the difference in price of merchandise, not under investigation, produced by another manufacturer for sale under its own name and also for the Gold Star label. We however do not make such adjustments based on sales of merchandise not subject to investigation.

We have preliminarily determined that Gold Star's bad debt claim should not be considered a direct selling

expense adjustable as a circumstance of sale pursuant to section 773(a)(4)(B). To the extent that we allow bad debts adjustments, we consider bad debts to be indirect selling expenses adjustable as part of the exporter's sales price offset under § 353.15(c) of the Commerce Regulations.

For Taihan we determined that insufficient deductions has been made for selling expenses incurred in the U.S. market and, in particular, credit expenses incurred were not reported. For this preliminary determination, we calculated amounts based on the Taihan American Corporation's profit and loss statement.

We also adjusted Taihan's claim for indirect selling expenses in the home market by deducting the amount of selling expenses incurred in the home market on export sales. Other companies did not report the export expenses incurred in the home market. We will require any such expenses to be reported prior to verification of the responses.

We have preliminarily determined that Taihan's advertising expense in the United States is an indirect selling expense and have used it as part of the limit on the offset to home market price for indirect selling expenses. We denied Anam's claim for a level of trade adjustment because the claim was based on all indirect selling expenses in the home market with no demonstration of how these expenses vary by level of trade.

Anam's and KEC's credit expenses were based on a calculation of an imputed expense. We have allowed only the credit expense actually incurred.

We have reduced the amount of Anam's warranty expense to allow only those expenses directly involved in warranty servicing, such as free parts. We disallowed portions of Anam's claim that would have been incurred regardless of servicing, such as the salaries of servicemen.

The Department will address at the time of verification of the responses the major issue of whether claims made for differences in physical characteristics between the U.S. and Korean models should be allowed when the cost to the manufacturer is based on the price from a related supplier. We have only preliminarily allowed these claims. If we find that the manufacturers cannot substantiate that the prices are made at arms-length, we will disallow the claims at the time of our final determination. We will also require the manufacturers to prove that there are no compensating payments or rebates within the larger corporate entities that would, in effect, adjust the price of materials.

Negative Determination of Critical Circumstances

Counsel for petitioners alleged that imports of color television receivers from Korea present "critical circumstances" within the meaning of section 733(e)(1) of the Tariff Act. Critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) there have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

The petitioners did not allege a history of dumping of Korean television receivers. We therefore considered whether there is a reasonable basis to believe or suspect that the person by whom, or for whose account, the product was imported knew or should have known that the exporter was selling such television receivers at less than fair value. We believe that, where margins calculated on the basis of the questionnaire responses are sufficiently large, it is reasonable for the Department to believe or suspect that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market prices. In this case, we have found that the preliminary margins are not sufficiently large to warrant such a belief of suspicion that importers, even those which are related parties, should have known that this product was being sold at less than fair value. For this reason, we preliminarily determine that critical circumstances do not exist with respect to color television receivers from Korea.

Verification

As provided for in section 776(a) of the Tariff Act, we will verify all data used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 773(d) of the Tariff Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of color television receivers from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The Customs Service shall require a cash deposit or bond equal to the estimated average amount by which the fair value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice.

The weighted-average margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin (percent)
Samsung Electronics Co., Ltd.	3.05
Gold Star Co., Ltd.	9.53
Anam Electric Industrial Co., Ltd.	0
Korea Electronics Co., Ltd.	2.04
Taihan Electric Wire Co., Ltd.	1.77
Other manufacturers/sellers/exporters	5.31

ITC Notification

In accordance with section 773(f) of the Tariff Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or threatening to materially injure, a U.S. industry before the latter of 120 days after the publication of this notice or 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 23, 1983, at the U.S. Department of Commerce, Room 6802, 14th & Constitution Ave., NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain a list of the issues the party wishes to discuss. In addition, each party wishing to make an affirmative presentation of issues must submit prehearing briefs in at least ten copies to the Deputy Assistant Secretary by November 16, 1983. Oral presentations will be limited to issues raised in the briefs. Any written views filed

independently of the hearing should be filed in accordance with section 353.46 of the Commerce Regulations within thirty days of the date of publication of this notice, at the above address in at least 10 copies.

Dated: October 11, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-28449 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-DS-M

Preliminary Determination of Sales at Less Than Fair Value; Color Television Receivers From Taiwan

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value; color television receivers from Taiwan.

SUMMARY: The Department of Commerce ("the Department") has preliminarily determined that color television receivers from Taiwan are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission ("ITC") of our determination, and we have directed the U.S. Customs Service to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margin described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 23, 1983.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman or William L. Matthews, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

As provided for in section 733 of the Tariff Act of 1930 ("the Tariff Act"), we have preliminarily determined that there is a reasonable basis to believe or suspect that color television receivers from Taiwan are being, or are likely to be, sold in the United States at less than fair value.

We have found dumping margins ranging from 0.01 percent to 31.12 percent. The overall weighted-average margin on all sales compared is 3.59 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 23, 1983.

Case History

On May 2, 1983, we received a petition from the Independent Radionic Workers of America, the International Brotherhood of Electrical Workers, the International Union of Electrical, Radio & Machine Workers, and the Industrial Union Department, AFL-CIO, filed on behalf of the U.S. industry producing color television receivers. In accordance with the filing requirements of § 353.36 of the Commerce Regulations, the petition alleged that color television receivers from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 27, 1983 (48 FR 23879-80). The ITC subsequently found, on June 16, 1983, that there is a reasonable indication that imports of color television receivers are materially injuring, or are threatening to materially injure, a U.S. industry.

The petition alleged that Sampo Corporation, AOC International, Orion Electric (Taiwan) Co., Ltd., Hitachi Television (Taiwan) Ltd., and Tatung Co. produce color television receivers for export to the United States. In addition to the companies named in the petition, we are also examining sales by Fulet Corporation, Sanyo Electric (Taiwan) Co., Ltd., and RCA Taiwan Ltd.

On September 20, 1983, the petitioners amended the petition to allege that "critical circumstances," as defined in section 733(e) of the Tariff Act, exist.

Scope of Investigation

The merchandise covered by this investigation is color television receivers, complete or incomplete. This investigation is intended to cover all color television receivers regardless of tariff classifications. The merchandise is currently classifiable under item numbers 685.1125, 685.1126, 685.1127, 685.1128, 685.1129, 685.1135, 685.1144, 685.1148, 685.1455, 685.1456, 685.1458, 685.1460, and 685.1463 of the Tariff Schedules of the United States Annotated.

The eight manufacturers under investigation accounted for virtually all known color television receivers exported from Taiwan to the United States during the period of the investigation.

The investigation covers the period from July 1, 1982 through March 31, 1983 for United States price transactions and generally April 1, 1982 through March 31, 1983 for foreign market transactions.

United States Price

As provided for in section 772 of the Tariff Act, we have preliminarily used the purchase price as the United States price for sales by Orion and certain sales by Sampo, Sanyo, and AOC because the merchandise was sold to unrelated purchasers prior to its importation into the United States . We have preliminarily used the exporter's sales price for other sales by Sampo, Sanyo, and AOC, and for all sales by RCA, Fulet, Hitachi, and Tatung.

We calculated purchase price based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made deductions from that price, where appropriate, for the following items: foreign inland freight, brokerage and insurance, stamp tax and export charges, ocean freight, marine insurance, U.S. customs duties, U.S. brokerage, U.S. inland freight, discounts and rebates.

We calculated exporter's sales price by deducting from the gross price to unrelated purchasers amounts for the following items, where appropriate: foreign brokerage, U.S. brokerage, ocean freight, marine insurance, U.S. Customs duties, foreign inland freight, U.S. inland freight, commissions to unrelated parties, credit expenses, advertising expenses, warranty expenses, indirect selling expenses, bad debt, rebates and discounts.

When comparing to home market prices, we accounted for taxes imposed in Taiwan but rebated or not collected by reason of the exportation of the merchandise to the United States.

Fair Value

We have preliminarily determined that Sanyo, Sampo, Tatung, and Fulet sold sufficient quantities of such or similar merchandie during the period of investigation in Taiwan. We have therefore used those sales to the unrelated purchasers in Taiwan as our basis for fair value. In addition, we have preliminarily determined that AOC, Hitachi, Orion, and RCA had no sales of color television receivers in Taiwan during the period. Therefore, we have chosen sales of color television

receivers by Orion to an unrelatd third-country purchaser in Canada as our basis for fair value. For AOC, we have compared certain sales to the United States with sales to unrelated third-country purchasers in Venezuela and for others have compared them with the constructed value of such merchandise. For RCA and Hitachi we have chosen the constructed value as the basis for comparison with the U.S. price. RCA had no home market or third-country sales. Hitachi had sales to a related firm in Japan and insignificant sales to other countries.

We calculated the home market price by deducting from the gross, packed prices the following items, where appropriate: freight, discounts, rebates and insurance. We made adjustments, where appropriate, for differences in the merchandise, commissions to unrelated parties, packing costs, royalty expenses, warranty expenses, credit expenses, direct advertising and sales promotion expenses, and technical services expenses.

In addition, when comparing the exporter's sales price to the home market price, we deducted indirect selling expenses from the home market price but limited to deduction to the amount of the U.S. expenses. We based adjustments for differences in merchandise for all companies on differences in costs of material, labor and direct factory overhead.

We calculated the third country price by deducting from the packed c.i.f. or f.o.b. prices the following items, as appropriate: ocean freight, marine insurance, foreign inland freight, foreign brokerage, bank charges, and stamp tax. We made adjustments, were appropriate, for differences in the merchandise, advertising expenses, warranties, royalties, commissions, and packing costs.

We calculated the constructed value by totalling the costs of: materials, fabrication used in producing such or similar merchandise, general expenses, profit, and the cost of the packing on the U.S. shipments. Where the amount for general expenses was less than ten percent of the cost of materials and fabrication, we used ten percent. Where the amount for profit was less than eight percent of the sum of the costs of materials, fabrication and general expenses, we used eight percent.

In making adjustments to the foreign market value, we made several changes to the figures offered by the respondents. We have preliminarily disallowed an adjustment to price, claimed by AOC, for the increasing efficiency of its production line as the production line produced more units. The adjustment cannot be considered a circumstance of any sale and it does not result in a difference in physical characteristics. We also did not use this data in our consideration of U.S. price.

We haved disallowed a rebate claimed by AOC because it was not related to the sale of color television receivers but covered a reimbursement for overstocked parts.

We have not accepted AOC's claim for an offset to the third country price for the indirect selling expenses incurred on the U.S. exporter's sales price sales. Because we had no sales of most models to Venezuela during the investigation period, AOC's claim for indirect selling expenses in unjustifiably large.

We have preliminarily disallowed Sampo's claim for product engineering costs because the benefit of those costs for home market production will also benefit exported merchandise.

We have disallowed Sampo's claim for goodwill because goodwill is not a selling expense.

We have disallowed portions of Sampo's warrantly expense claim, such as salaries of servicemen, as a circumstance-of-sale adjustment because those portions are not direct servicing expenses.

We adjusted Sanyo's claim for quantity incentives, sales promotion discounts and early payment discounts, but only to the extent that the data was available. We allowed the claimed discounts for the time periods in which they were actually incurred, rather than as a weighted-average over all sales, and disallowed portions that were claimed but not yet rebated.

We did not accept Sanyo's claim for a deduction for deposits and collateral because Sanyo did not report the interest earned on the cash securities or on land and buildings as an offset to the adjustment.

We have preliminarily disallowed Fulet's claim for technical services. The claimed adjustment included expenses such as salary, depreciation of vehicles and accident insurance fees that we do not consider direct selling expenses. Because these expenses were not itemized separately, we could not disaggregate them from the total claim.

We did not accept Fulet's claim for warrantly expenses since it was not based on actual experience. We also did not allow Fulet's advertising claim. Fulet incurred the expense predominantly through a trade show held in Taiwan. Since non-Taiwanese buyers also attended the show, we have determined preliminarily that this is not an appropriate adjustment for home market sales. We further disallowed Fulet's warehousing claim because the company used estimates which it failed to justify in response to our requests. Finally, Fulet claimed a deduction for profit earned on each unit. We disallowed this claim as an inappropriate adjustment.

For Tatung, we disallowed circumstance-of-sale adjustments for design costs, market research and new product testing, and a direct expense adjustment for final costs for the servicemen, but we did include them as indirect selling expenses.

We did not accept Tatung's claim for an adjustment for costs of antenna covers and boosters on some sales since they did not influence the unit price.

The Department will address at the time of verification of the responses the major issue of whether claims made for differences in physical characteristics between the U.S. and Taiwan models should be allowed when the cost to the manufacturer is based on the price from a related supplier. We have only preliminarily allowed these claims. If we find that the manufacturers cannot substantiate that the prices are made at arms-length, we will disallow the claims at the time of our final determination. We will also require the manufacturers to prove that there are no compensating payments or rebates within the larger corporate entities that would, in effect, adjust the price of materials.

Negative Determination of Critical Circumstances

Counsel for petitioners alleged that imports of color television receivers from Taiwan present "critical circumstances" within the meaning of section 733(e)(1) of the Tariff Act. Critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

The petitioners did not allege a history of dumping of Taiwanese television receivers. We therefore considered whether the person by whom, or for whose account, the product was imported knew or should have known that the exporter was selling such television receivers at less than fair value. We believe that, where margins calculated on the basis of questionnaire responses are sufficiently

large, it is reasonable for the Department to believe or suspect that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market prices. In this case, we have concluded that the preliminary margins are not sufficiently large to warrant such a belief or suspicion that importers, even those which are related parties, should have known that this product was being sold at less than fair value. For this reason, we preliminarily determine that critical circumstances do not exist with respect to color television receivers from Taiwan.

Verification

As provided for in section 776(a) of the Tariff Act, we will verify all data used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 773(d) of the Tariff Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of color television receivers from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The Customs Service shall require a cash deposit or bond equal to the estimated average amount by which the fair value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice.

The weighted-average margins are as follows:

Manufacturer/sellers/exporters	Weighted-average margin (percent)
AOC International	6.38
Fulet Corporation	31.12
Hitachi Television (Taiwan) Ltd	0.26
Orion Electric (Taiwan) Co., Ltd	0.01
RCA Taiwan Ltd	8.61
Sampo Corporation	0.64
Sanyo Electric (Taiwan) Co., Ltd	25.36
Tatung Co	6.61
Other manufacturers/sellers/exporters	3.59

ITC Notification

In accordance with section 733(f) of the Tariff Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports are materially injuring, or threatening to materially injure, a U.S. industry before the later of 120 days after the publication of this notice or 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 21, 1983, at the U.S. Department of Commerce, Room 6802, 14th & Constitution Ave., NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain a list of the issues the party wishes to discuss. In addition, each party wishing to make an affirmative presentation of issues must submit prehearing briefs in at least ten copies to the Deputy Assistant Secretary by November 16, 1983. Oral presentations will be limited to issues raised in the briefs. Any written views filed independently of the hearing should be filed in accordance with § 353.46 of the Commerce Regulations within thirty days of the date of publication of this notice, at the above address in at least 10 copies.

Dated: October 11, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-28450 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Receipt of Applications for General Permit; Japan Deep-Sea Trawlers Association

Notice is hereby given that the following applications have been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1984 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

1. Japan Deep-Sea Trawlers Association, No. 601 Daito Building, 3–6, Kandaogawacho, chiyoda-ku, Tokyo, Japan, has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 120 sea lions and 10 of each of the following: Harbor seals, fur seals and sea otters in the Bering Sea/Gulf of Alaska and up to 5 of each of the following: Walrus in the Bering Sea and harbor seals, pilot whales, harbor porpoise, Atlantic white-sided dolphin, and bottlenose dolphin in the North Atlantic.

2. Hokuten Trawlers Association, c/o National Federation of Medium Trawlers, Toranomon Chuo Building, 1–16, Toranomon, 1-chome, Minatoku, Tokyo, Japan, has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 85 sea lions, up to 5 of each of the following: Harbor seals, fur seals, sea otters, and up to 10 walrus in the Bering Sea and Aleutian Islands.

3. The North Pacific Longline-Gillnet Association, Zenkeiren Building, 2–7–2, Hirakawa-cho, Chiyoda-ku, Tokyo, Japan, has applied for a Category 5: "Other Gear" general permit to take marine mammals by harassment only.

The applications are available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: October 12, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28465 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Marineland, Inc.

Notice is hereby given that an Applicant has applied in due form for a Permit to take and import marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Marineland, Inc. (P67A).

b. Address: Rt. 1, Box 122, St. Augustine, Florida 32086.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Short-finned pilot whales (*Globicephala macrorhynchus*), 2.

4. Type of Take: To take two (2) short-finned pilot whales in the area of the central Bahama Islands and import them for public display.

5. Location of Activity: Mid-Bahama Islands near George-Town, Exuma.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 12, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28467 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Acuaticland, S.A. (176C)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Acuaticland, S.A. (176C).

b. Address: Zoo Delfinario Elche, Sanchez-Ferrer Gestoria, Obispo-Tormo 7, Elche (Alicante), Spain.

2. Type of Permit: Public Display.

3. Name and Number of Animals:

Atlantic bottlenose dolphin (*Tursiops truncatus*), 4.

California sea lion (*Zalophus californianus*), 4.

4. Type of Take: To take Atlantic bottlenose dolphin from the Mississippi Sound area of the Gulf of Mexico, and to transport these, along with captive bred California sea lions, to Elche, Spain for public display.

5. Location of Activity:

6. Period of Activity: 2 years.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the goverment involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of the Ministry of Agriculture, Fish and Food have been found appropriate and sufficient to allow consideration of this permit application.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce if forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administration for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 12, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28466 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; South Dakota School of Mines and Technology Foundation, Research Center, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to the South Dakota School of Mines and Technology Foundation, Research Center, Inc., having a place of business at Rapid City, South Dakota, an exclusive license with right to sublicense, to manufacture, use and sell products embodied in the

inventions, "Tree Rooting Using Synthetic Auxins," U.S. Patent 4,297,125 and Patent Applications Serial Numbers 367,638 and 376,639. The inventions were jointly made by employees of the South Dakota School of Mines and the U.S. Department of Agriculture.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Dated: October 11, 1983.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, Department of Commerce, National Technical Information Service.

[FR Doc. 83-28358 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing New Limits on Certain Cotton Textile Products from Hong Kong

October 14, 1983.

On September 15, 1983, a notice was published in the **Federal Register** (48 FR 41481) announcing that the Government of the United States had requested consultations with the Government of Hong Kong concerning carded cotton duck in Category 319 under the terms of the Bilateral Agreement of June 23, 1982, as amended.

The purpose of this notice is to announce that consultations on this category were held on October 3, 1983 and a limit of 31 million square yards was established for 1983 under the terms of the bilateral agreement.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-28451 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Advisory Committee has been scheduled as follows:

Thursday & Friday, November 17–18, 1983, The Pentagon, Washington, D.C. The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in Section 552(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

October 14, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-28499 Filed 10-18-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 11, 1983.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will meet at Griffiss Air Force Base, New York in Buildings 240, 3, and 106 on November 8 and 9, 1983.

The purpose of the meeting will be to review on-going projects in the field of C^3 technology. The meeting will convene at 8:00 a.m. to 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-28403 Filed 10-18-83; 8:45 am]

BILLING CODE 3910-01-M

Defense Intelligence Agency

Board of Visitors, Defense Intelligence College; Committee Meeting

The Defense Intelligence College panel of the Board of Vistors of the National Defense University and the Defense Intelligence College will meet in a closed session on November 7, 8, and 9, 1983, in Building T–28, Anacostia Annex, Washington, D.C.

The mission of the Board of Visitors is to provide advice on matter related to mission, policy, faculty, students, curricula, education methods, research, and administration of the Defense Intelligence College, which fall under the purview of the Defense Intelligence Agency and the Secretary of Defense.

A meeting of the Board has been scheduled for November 7, 8, and 9, 1983, to provide written observations and recommendations on matters relating to the accomplishment of the mission assigned to the Defense Intelligence College by DoD Directive 3305.1.

In accordance with U.S.C. App I, 10(d) (1976), it has been determined that this BOV meeting concerns matters listed in 5 U.S.C. 552(c)(1)(1976), and that accordingly this meeting will be closed to the public.

October 14, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

[FR Doc. 83-28498 Filed 10-18-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Thermal Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Thermal Task Group of the Committee on Enhanced Oil Recovery will meet in October 1983. 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 Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be

gathered by the various task groups. The time, location, and agenda of the Thermal Task Group meeting follows:

The Thermal Task Group will hold its ninth meeting on Monday, October 31, 1983, starting at 8:30 a.m., Room 1070, Shell Oil Company, One Shell Plaza, 900 Louisiana Street, Houston, Texas.

The tentative agenda for the Thermal 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 Thermal 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 Thermal 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 G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, 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, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on Thursday, October 13, 1983.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc. 83-28461 Filed 10-18-83; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Costs and Economics Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in November 1983. 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 Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs and Economics Task Group meeting follows:

The Costs and Economics Task Group will hold its eleventh meeting on Tuesday, November 1, 1983, starting at 9:00 a.m., in the Venice I Room, Guest Quarters—Galleria West Hotel, 5353 Westheimer, Houston, Texas.

The tentative agenda for the Costs and Economics 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 Costs and Economics 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 Costs and Economics 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 G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353-3032, 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, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on Thursday, October 13, 1983.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc. 83-28462 Filed 10-18-83; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Enhanced Oil Recovery will meet in November 1983. 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 Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its twelfth meeting on Wednesday, November 2, 1983, starting at 9:30 a.m., in the Venice I and II Rooms, Guest Quarters-Galleria West Hotel, 5353 Westheimer, Houston, Texas.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group study 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 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 will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-2918, 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, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on Thursday, October 13, 1983.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc. 83-28463 Filed 10-18-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP83-527-000]

Panhandle Eastern Pipe Line Co.; Notice of Application

Take notice that on September 28, 1983, Panhandle Eastern Pipeline Company (Applicant), P.O. Box 1642,

Houston, Texas 77001, filed in Docket No. CP83-527-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service on behalf of Quinque Oil and Gas Production Company (Quinque), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that Applicant was authorized to receive gas from Quinque in Seward County, Kansas, and redeliver it to Quinque near Hayne, Kansas, for ultimate delivery to the City of Hayne, Kansas. It is explained that the source of the gas was Quinque's own production from the Copper #1 well in Seward County, Kansas. Applicant states that while its certificate application to transport gas for Quinque was pending before the Commission the Cooper #1 well was depleted. Therefore, it is asserted, service never commenced. Applicant proposes the abandonment of such service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28362 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-8-000]

Pennsylvania Power & Light Co.; Filing

October 13, 1983.

Take notice that on October 4, 1983, Pennsylvania Power & Light Company (PP&L) tendered for filing as a rate schedule an executed agreement dated as of September 30, 1983 between PP&L and New England Power Company (NEP).

PP&L states that the rate schedule provides for a maximum energy reservation charge rate of $24.70 per megawatt hour and an energy charge rate based upon the incremental cost of providing the energy.

PP&L requests an effective date of October 4, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on NEP and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28363 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7004-019]

Pennzoil Co.; Notice of Seventh Amendment to Application For Immediate Clarification or Abandonment Authorization

October 13, 1983.

Take notice that on October 3, 1983, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001, filed in Docket No. G-7004-019 an application for immediate clarification of Order dated November 24, 1980 in the above-referenced docket, or abandonment authorization for as much as as is required to allow sales of gas to eleven new applicants for residential service in West Virginia in addition to those applicants specified in Pennzoil's original application filed on October 25, 1982. In filing this Seventh Amendment to its original application, Pennzoil incorporates herein and renews each of the requests for clarification or abandonment authorization set forth in that application. Service to these applicants and existing customers would be provided from gas supplies that would otherwise be sold to Consolidated Gas Supply Corporation (Consolidated), an interstate pipeline.

Pennzoil states that immediate action is necessary to protect the health, welfare and property of the applicants and customers in West Virginia who depend on Pennzoil for their gas supply needs. Pennzoil also states that immediate action also is required because, by order dated October 21, 1982, the Public Service Commission of West Virginia directed Pennzoil "to show cause, if any it can, why it should not be found to be in violation of its duty * * * to provide adequate gas service to all applicants * * * and why it should not be required to provide service to domestic customers in West Virginia when requests are received for same."

Consolidated has indicated that it has no objection to the requested authorization.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before, October 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in

accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G–7004–006 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G–7004–019.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on the amendment to the original application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is requried, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28364 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-10-000]

Philadelphia Electric Co.; Filing

October 13, 1983.

Take notice that on October 5, 1983, Philadelphia Electric Company (Philadelphia) tendered for filing proposed changes in its FERC Electric Service Tariff No. 44 applicable for service to the Borough of Lansdale. The proposed changes would increase revenues from jurisdictional sales and service by $986,000, or 13.9%, based on the 12-month period ending December 31, 1984.

Philadelphia requests an effective date of December 4, 1983.

Copies of the filing were served upon the Borough of Lansdale and upon the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28365 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-9-000]

Philadelphia Electric Co.; Filing

October 13, 1983.

Take notice that on October 5, 1983 Philadelphia Electric Company (Philadelphia) tendered for filing proposed changes in its FERC Electric Service Tariff No. 36 and No. 2, applicable for service to Conowingo Power Company. The proposed changes would increase revenues from jurisdictional sales and service by $4,624,000, or 16.3% based on the 12-month period ending December 31, 1984.

Philadelphia requests an effective date of December 4, 1983.

Copies of the filing were served upon the public utility jurisdictional customers (other parties the public utility served, inter alia, State Public Service Commission other government agencies, etc.).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28366 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-1-000]

Public Service Company of New Mexico; Application for an Order

October 13, 1983.

Take notice that on October 5, 1983, Public Service Company of New Mexico (PNM), filed an application seeking an Order or other appropriate determination determining that no approval is necessary and dismissing for lack of jurisdiction, or, in the alternative, for approval pursuant to Section 203 of the Federal Power Act authorizing the sale to the M–S–R Public Power Agency (M–S–R) of an undivided ownership interest in the San Juan Unit 4 Main Power Transformer of the San Juan Generating Station located in San Juan County, New Mexico.

PNM is an electrical utility incorporated in the State of New Mexico, with its principal office in Albuquerque, New Mexico. M–S–R is a joint exercise of powers agency organized under the laws of the State of California, and Modesto Irrigation District. M–S–R's principal office is in Modesto, California.

The interest to be sold and conveyed by PNM is a 28.8% undivided ownership interest in the Main Power Transformer and associated equipment installed as part of the San Juan Generating Station Unit No. 4, located in San Juan County, New Mexico. The purchase price to be paid to PNM for the 28.8% interest in the Main Power Transformer as of December 31, 1983 is $879,762.95.

After the acquisition, the facilities will continue to be used to provide the same service now provided.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 385.212 and 385.207 of 18 CFR. All such petitions or protests must be filed on or before October 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28387 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-12-000]

Public Service Company of New Mexico; Filing of Interconnection Agreement

October 13, 1983.

Take notice that Public Service Company of New Mexico (PNM) on October 5, 1983, tendered for filing as an initial rate schedule, an Interconnection Agreement, including Service Schedules A, B, and C thereto, between PNM and the M-S-R Public Power Agency (M-S-R).

The Interconnection Agreement provides for the purchase, sale, marketing, and exchange of power and energy between PNM and M-S-R commencing in 1984. Specifically, the Agreement provides for economy energy transactions, energy brokerage transactions, and power exchange transactions between the two parties.

Copies of the filing were served upon M-S-R and the New Mexico Public Service Commission.

Any person desiring to be heard or protest said Interconnection Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.212 and 385.207 of 18 CFR. All such petitions or protests should be filed on or before October 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28388 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-58-00.4]

Southern Natural Gas Co.; Notice of Motion of Southern Natural Gas Company To Make Effective Revised Tariff Sheets

October 13, 1983.

Take notice that on September 30, 1983, Southern Natural Gas Company (Southern) tendered for filing a motion, pursuant to Section 4(e) of the Natural Gas Act, § 154.67(a) of the Commission's Regulations and Rule 212 of the Commission's Rules of Practice and Procedure, to make the following revised tariff sheets to Southern's FERC Gas Tariff effective on October 1, 1983.

Sixth Revised Volume No. 1

Fifty-Ninth Revised Sheet No. 4A

Original Volume No. 2

Substitute Fourteenth Revised Sheet No. 242
Substitute Fifth Revised Sheet No. 369
Substitute Fifth Revised Sheet No. 397
Substitute Fifth Revised Sheet No. 403
Substitute Fifth Revised Sheet No. 450
Substitute Fifth Revised Sheet No. 458
Substitute Fifth Revised Sheet No. 470
Substitute Fourth Revised Sheet No. 520
Substitute Second Revised Sheet No. 537
Substitute Second Revised Sheet No. 554
Substitute Second Revised Sheet No. 582
Substitute Second Revised Sheet No. 599
Substitute First Revised Sheet No. 618
Substitute First Revised Sheet No. 635
Substitute First Revised Sheet No. 652
Substitute First Revised Sheet No. 669
Substitute First Revised Sheet No. 686
Substitute First Revised Sheet No. 703
Substitute Second Revised Sheet No. 720

First Revised Volume No. 2A

Substitute Sixth Revised Sheet No. 94

Southern states that on March 31, 1983, it filed in Docket No. RP83-001 revised tariff sheets to implement a general rate increase with a proposed effective date of May 1, 1983. By its order issued on April 29, 1983, the Commission accepted the revised tariff sheets for filing and suspended their effectiveness until October 1, 1983, and ordered Southern to file on or before September 30, 1983, revised tariff sheets to reflect (i) the eliminations of all costs associated with facilities that will not be in service as of September 30, 1983 (ii) the actual balance of advance payments in Account 166 as of September 30, 1983, and (iii) a balance for gas take-or-pay payments based on the average of thirteen monthly balance for the period ending September 30, 1983.

On September 30, 1983, Southern filed the revised tariff sheets described above. As explained more fully in Southern's transmittal letter which accompanied those revised tariff sheets, such sheets reflected the conditions specified in the Commission's order of April 29, 1983, and a reduction in Southern's main line depreciation rate from 3.30% to 3.00% pursuant to a Stipulation and Agreement in Docket No. RP82-116-000.

Southern states that Section 4(e) of the Natural Gas Act provides that if a proceeding such as this "has not been concluded and an order made at the expiration of the suspension period, on motion of the natural-gas company making the filing, the proposed change of rate, charge, classification, or service shall to into effect." The instant proceeding has not been concluded and a final order will not have been issued by the Commission on or before October 1, 1983, when the rate increase can be made effective. Accordingly, Southern filed this motion for the purpose of permitting it to collect the increased rates in Docket No. R83-58-001 commencing on that date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28389 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-119-007]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Petition To Amend

October 13, 1983.

Take notice that on September 26, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-119-007 a petition to amend the order accompanying Federal Power Commission Opinion No. 789,[1] issued on March 7, 1977, as amended, to authorize: (a) The service rendered by Tennessee under such certificate for Shell Offshore Inc. (Shell), in lieu of Shell Oil Company, (b) the establishment of a new point of receipt from Shell for the transportation of gas for Shell, (c) the deletion of

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (1000.1), it was transferred to the Commission.

certain previously authorized points of receipt from Shell, and (d) the elimination of the existing end-use restriction with respect to the transportation of gas from the previously authorized points of receipt, as well as from the new point of receipt, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Tennessee's petition states that Shell has succeeded to Shell Oil Company's interest in certain properties, including the properties from which gas production is transported by Tennessee under the authorization in this docket, and that the authorization issued herein should be amended to reflect such succession. Additionally, it is stated, Shell has requested Tennessee to seek authorization for a new point of receipt under the subject authorization. The gas which would be received by Tennessee at this point would be produced from South Pass Block 42, offshore Louisiana, and would be gas which is reserved by Shell from sale to Tennessee under a gas sale and purchase contract dated June 16, 1976 (Shell's FERC Rate Schedule No. 1). Tennessee further states that Shell has advised that it has sold certain properties from which production was delivered to Tennessee at certain other receipt points and that such receipt points should, therefore, be deleted from the authorization herein.

Finally, Tennessee notes that the certificate issued herein is conditioned to require, *inter alia*, that the gas transported by Tennessee for Shell Oil Company under such certificate is to be used for process and feedstock uses. However, Tennessee maintains that, in Opinion 10–B, the Commission, *inter alia*, revised its previous policy with respect to end-use restrictions imposed upon pipeline certificates for the transportation of producer reservation gas, indicating that such restrictions are no longer in the public interest. Accordingly, Tennessee requests amendment of the certificate issued in this docket to eliminate the aforementioned end-use restriction with respect to the transportation of gas from the previously authorized points of receipt, as well as from the new receipt point for which authorization is requested.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Nov. 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appopriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28370 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-499-000]

Texas Gas Transmission Corp.; Application

October 13, 1983.

Take notice that on September 7, 1983, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP83–499–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas requests authority to abandon and remove certain facilities consisting of approximately 800 feet of 4-inch line with a pig trap assembly and a 2-inch purchase meter station located in Block 23, Terrebonne Parish, Louisiana. Such facilities have a salvage value of $2,225, it is submitted. Texas Gas states that pursuant to a contract dated August 19, 1968, it has been purchasing natural gas from Exchange Oil and Gas Corporation (Exchange) from the No. 1 Well, State Lease 4847, Pass Des Illettes Field, in Terrebonne Parish, Louisiana. Exchange has informed Texas Gas that it has plugged and abandoned the No. 1 Well and is in the process of abandoning the platform on which the facilities sought to be abandoned by Texas Gas are located. Texas Gas states that the proposed abandonment would have no adverse effect on the service to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with he Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28371 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-2-000]

Wisconsin Power & Light Co.; Filing

October 13, 1983.

Take notice that on October 3, 1983, Wisconsin Power & Light (WPL) tendered for filing a revised Wholesale Power Agreement dated May 31, 1983, between the Central Wisconsin Electric Cooperative and WPL. WPL states that this supercedes the existing Wholesale Power Agreement between the parties. The purpose of the new agreement is to provide for voltage upgrades at various delivery points between the parties.

WPL requests an effective date of May 31, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on the Central Wisconsin Electric

Cooperative and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to the protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such petitions or protests should be filed on or before October 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28372 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-3-000]

Wisconsin Power & Light Co.; Filing

October 13, 1983.

Take notice that on October 3, 1983, Wisconsin Power & Light (WPL) tendered for filing the third Wholesale Power Contract Amendment dated July 28, 1983 between the Adams-Marquette Electric Cooperative and WPL. WPL states that this amendment is for the purpose of continuing service to the Cooperative and the Kingston delivery point.

WPL requests an effective date of July 28, 1983, and therfore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on the Adams-Marquette Electric Cooperative and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28373 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-424-000]

Airtricity; Application For Commission Certification of Qualifying Status of a Small Power Production Facility

October 14, 1983

On September 12, 1983, Airtricity, (Applicant) of 151 Kalmus Drive, Suite M-1, Costa Mesa, California 92626, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. On October 4, 1983, supplementary information was filed to complete the application.

The small power production facility will be located in Kern County, California. The facility will be a wind farm, which will consist of 150 to 200 wind turbines. The electric power production capacity of the facility will be 9 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28389 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-17-000]

Arizona Public Service Company; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Arizona Public Service Company (Arizona) tendered for filing as an initial rate schedule an Interruptible Transmission Service Agreement between Arizona and Public Service Company of New Mexico (PNM) dated August 4, 1983.

Arizona requests that the Agreement become effective 60 days from the date of filing.

Copies of this fining have been served upon the Arizona Corporation Commission and Public Service Company of New Mexico.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28390 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-4-000]

Bangor Hydro-Electric Company; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on October 3, 1983, Bangor Hydro-Electric Company (Bangor) tendered for filing a Transmission Contract (Contract) made as of July 1, 1983 between Bangor and Central Maine Power Company (CMP) for the sale of transmission services by Bangor to CMP.

Bangor states that the Agreement provides for transmission of up to 150,000 kilowatts of CMP's power entitlement from the New Brunswick Electric Power Commission ("New Brunswick"). The Contract provides that CMP pay a monthly transmission charge for each kilowatt of capacity received by Bangor for transmission to CMP at its New England Power Pool Low Voltage Pool Transmission Facility rates adjusted to account for the New Brunswick purchase.

Bangor requests an effective date of November 1, 1983, and therefore

requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to CMP.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28374 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-517-000]

Colorado Interstate Gas Company; Application

October 13, 1983.

Take notice that on September 22, 1983, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP83-517-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Cheyenne Light, Fuel and Power Company (Cheyenne Light), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that it has entered into a gas transportation agreement dated November 21, 1978, as amended, with Montana-Dakota Utilities Co. (MDU), Cheyenne Light, Fuel Resources Development Company (Fuelco), and Energetics, Inc. (Energetics). CIG further states that it is involved to the extent of providing a transportation service by receiving for and delivering gas to Cheyenne Light.

CIG contends that certain gas would be produced by Energetics from acreage in Williams and McKenzie Counties, North Dakota, and Fuelco has purchase rights to this gas which is to be processed through the Tioga Plant, operated by Aminoil USA, Inc., located in Williams County, North Dakota. CIG further asserts that Fuelco has assigned to Cheyenne Light, a local distribution company, which is one of CIG's customers and an affiliate of Fuelco, its purchase rights to the residue gas on an annual basis during the months of December through March. MDU would purchase the residue gas during the months of April through November of each Year.

The residue gas, to average no more than 1,500 Mcf per day, to be transported would be delivered to MDU at the tailgate of the Tioga Plant for the account of Cheyenne Light. MDU, in turn, would transport and deliver the thermally equivalent volumes to CIG at existing interconnections between CIG and MDU. The subject gas, less fuel usage and lost or unaccounted-for volumes, would be delivered to Cheyenne Light by CIG at an existing delivery point in Weld County, Colorado.

Cheyenne Light would reimburse CIG for redelivery volumes delivered at a rate to reflect CIG's transmission cost of service, including a reasonable return on investment, but exclusive of the cost of service attributable to its gathering and storage system and exclusive of the cost of gas attributable to gas used in the operation and maintenance of CIG's transmission system. CIG indicates the current transportion rate is 36.08¢ per Mcf as approved in Docket No. RP82-54.

Any person desiring to be heard or to protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211), and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28375 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-324-002]

Columbia Gas Transmission Corporation; Petition To Amend

October 13, 1983.

Take notice that on September 21, 1983, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP83-324-002 a petition to amend the order issued of August 19, 1983, in Docket No. CP83-324-000, issuing a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act, which authorized transportation of natural gas for Allied Corporation, Fibers & Plastic Company (Allied), by authorizing the transportation of natural gas from additional points of receipt in Upshur County, West Virginia, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is currently authorized, pursuant to a transportation agreement dated April 21, 1983, to transport up to 15,000 dt equivalent of natural gas per day for the account of Allied from points of receipt from Allegheny Land & Mineral Company, the seller, located in Randolph County, West Virginia, to an existing point of interconnection with Commonwealth Gas Pipeline Corporation (Commonwealth) in Greene County, Virginia, which thereupon delivers the gas to Allied at Allied's plant site in Hopewell, Virginia. Petitioner proposes to transport gas for Allied from additional points of receipt in Upshur County, West Virginia, pursuant to Petitioner's Amendment to Gas Transportation Agreement dated September 9, 1983, inasmuch as the gas will be produced from wells in both Randolph and Upshur Counties, West Virginia.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Nov. 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28376 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-768-000]

Connecticut Light and Power Company; Filing October 13, 1983

The filing Company submits the following:

Take notice that on September 26, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated June 13, 1983 between (1) CL&P and Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and (2) Peabody Municipal Light Plant (Peabody).

CL&P states that the Transmission Agreement provides for transmission services to Peabody for the wheeling of Peabody's purchase from the Massachusetts Municipal Wholesale Electric Company (MMWEC) of an entitlement in pumped storage capacity obtained by MMWEC from the Connecticut Municipal Electric Energy Cooperative during the period commencing June 13, 1983 and terminating August 1, 1983.

CL&P further states that the transmission charge rate is a weekly cost-of-service rate equal to one-fifty-second of the annual average cost of transmission service on the electric transmission system of the NU Companies and is determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The weekly transmission charge is determined by the product of: (i) The weekly transmission charge rate ($/kW-week), and (ii) the number of kilowatts that Peabody is entitled to receive during each such week. The weekly transmission charge is reduced by up to 50% to give due recognition for related transmission payments made by Peabody to the New England Power Company.

CL&P requests an effective date of June 13, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on WMECO and Peabody.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28377 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-11-000]

Consolidated Edison Company of New York, Inc.; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on October 5, 1983, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing proposed changes in its rate schedule for transmission and distribution service to the Power Authority of the State of New York (PASNY), Con Edison Electric Rate Schedule FERC No. 42. The proposed Supplement No. 11 would increase revenues from jurisdictional service to PASNY by $2,755,600, or 1.79% annually, subject to refund, and would include a 60-day surcharge for the recovery of approximately $0.3 million.

Con Edison states that the proposed increase represents PASNY's proportionate share of rate increases for increased property taxes and labor expense, granted to Con Edison by the New York Public Service Commission (NYPSC).

Con Edison requests an effective date of September 23, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon PASNY and NYPSC.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28378 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-439-000]

Detroit Diesel Allison; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 14, 1983.

On September 23, 1983, Detroit Diesel Allison, (Applicant) of 13400 West Outer Drive, Detroit, Michigan 48239, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at 36860 Encorse Road, Romulus, Michigan. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 11,795 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the

appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28392 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-7-000]

Gulf Power Company; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that Gulf Power Company (Gulf Power) on October 5, 1983, tendered for filing a supplemental contract executed between it and the Southwestern Power Administration (SEPA) acting on behalf of the Department of Energy. The supplemental contract is filed with the Federal Energy Regulatory Commission by Gulf Power because one of its provisons would increase the transmission payment to be made by SEPA for transmission of capacity and energy to certain preference customers designated by SEPA.

Gulf Power requests an effective date of October 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28379 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-13-000]

Iowa Power and Light Company; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Iowa Power and Light Company (Iowa Power) tendered for filing a Rate Schedule (Schedule) between Iowa Power and Harlan Municipal Utilities (Harlan), dated April 14, 1983.

Iowa Power states that the Schedule provides for the sale and transmission of participating power and energy from Iowa Power to Harlan between May 1, 1983 and the commercial operation date of Louisa Generating Station No. 1.

Iowa Power requests an effective date of May 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon each affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commssion, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28382 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-412-001]

Kansas Gas and Electric Company; Revised Refund Report

October 14, 1983.

Take notice that on October 7, 1983, Kansas Gas and Electric Company ("KG&E") submitted for filing a Revised Refund Report.

KG&E states that due to an inadvertent error, it excluded refunds due because of a 1¢ per kW reduction in the charge for service provided under Service Schedule E, Transmission Service for Outside Firm and Participation Power Purchases.

KG&E further states that a refund amount of $2164.39 includes interest of $74.39 which was calculated from the date payment was received through October 6, 1983 as ordered by the Commission in Order No. 47.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 25, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28393 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-9-000]

Kinzua Cogeneration Limited Partnership; Application For Commission Certification of Qualifying Status of a Cogeneration Facility

October 14, 1983.

On October 3, 1983, Kinzua Cogeneration Limited Partnership, (Applicant) of 703 Skinner Building, Seattle, Washington 98101, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Kinzua Corporation in Heppner, Oregon. The primary energy source for the facility will be biomass in the form of wood waste. The electric power production capacity of the facility will be 10 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28395 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-47-001; PGA84-1]

MIGC, Inc.; Filing

October 13, 1983.

Take notice that on September 30, 1983, MIGC, Inc. (MIGC) tendered for filing Substitute Twenty-seventh Revised Sheet No. 32 and Alternative Substitute Twenty-seventh Revised Sheet No. 32 .

On September 15, 1983, MIGC submitted its semi-annual PGA filing in Docket No. TA84-1-47-000 including the Twenty-seventh Revised Sheet No. 32, superseding Twenty-sixth Revised Sheet No. 32, Fourth Revised Sheet No. 32-A and Original Sheet No. 32-B, to MIGC's FERC Gas Tariff Original Volume No. 1. In its PGA filing, MIGC submitted alternative schedules reflecting projected sales of 11,009,453 MMBtu (Case 1) and, alternatively, projected sales of 4,909,000 MMBtu (Case 2). As explained in its PGA filing, the submission of alternate cases was necessitated by Colorado Interstate Gas Company (CIG) ceasing all purchases of gas from MIGC.

MIGC states that the tariff sheets submitted with its PGA filing may not have been in proper form because the proposed rates for Case 1 and Case 2 were included on a single revised tariff sheet. Accordingly, MIGC is submitting Substitute Twenty-seventh Revised Sheet No. 32 and Alternative Substitute Twenty-seventh Revised Sheet No. 32 to replace the Twenty-seventh Revised Sheet No. 32 submitted with the PGA filing.

MIGC states that the tariff sheets are being filed more than 30 days in advance of the proposed effective date of November 1, 1983, and that these tariff sheets do not reflect any substantive change from the PGA filing made on September 15, 1983. Nevertheless, MIGC requests that the Commission permit waiver of any regulations necessary for the acceptance of these alternative tariff sheets for filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests must be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28383 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-18-000]

Montana Power Company; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Montana Power Company (Montana) tendered for filing a revised Index of Purchasers, identified as Fifth Revised Sheets Nos. 9 and 10 under FERC Electric Tariff, 2nd Revised Volume No. 1, which has been revised to show the addition of Plains Electric G&T Cooperative, Inc., and summaries of sales made under the Company's FERC Electric Tariff, 2nd Revised Volume No. 1, during January, February, March, April, May and June, 1983, along with cost justifications for the rate charged. Also tendered for filing were summaries of sales under this tariff for the months of August, 1982, and October, 1982, which were inadvertently omitted from an earlier filing.

Montana requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's Notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file an motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28396 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1674-000]

Charles E. Monty; Application

October 14, 1983.

The filing individual submit the following:

Take notice that on October 3, 1983, Charles E. Monty filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President—Central Maine Power Company
Director—Central Maine Power Company
Presdient—Maine Yankee Atomic Power Company
Director—Maine Yankee Atomic Power Company
President—Maine Electric Power Company, Inc.
Director—Maine Electric Power Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28391 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-533-000]

Mountain Fuel Supply Company; Application

October 13, 1983.

Take notice that on September 30, 1983, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP83-533-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public

convenience and necessity authorizing the operation of one existing 6-inch tap and related facilities on Applicant's transmission Main Line No. 29 to effect the sale of natural gas by its Distribution Division to Woods Petroleum Corporation (Woods), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that effective July 31, 1980, the Oil and Gas Conservation Commission of the State of Wyoming imposed a shut-in order on the Powell Pressure Maintenance Unit (Powell PM Unit) in Converse County, Wyoming, due to declining reservoir pressures in the producing formations. Pursuant to a June 1, 1983, Pressure Maintenance Sale Agreement between Applicant and Woods, operator of the Powell PM Unit, Applicant has agreed to sell up to 9,000 Mcf of natural gas per day to Woods. Applicant and Woods, operator of the Powell PM Unit, Applicant has agred to sell up to 9,000 Mcf of natural gas per day to Woods. Applicant explains that its sale to Woods will be made under the authority of the Wyoming Public Service Commission at an initial rate of $3.31 per million Btu and that, to the extent possible, the gas will be provided from Applicant's general system supply. Woods is said to have agreed to pay the actual cost incurred by Applicant in acquiring any supplemental volume of gas necessary to support the sale to Woods.

Applicant states that the sale will permit the implementation of a secondary recovery program by Woods which is expected to result in the recovery of 10 million barrels of crude oil which would otherwise be irretrievably lost.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commsission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28385 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-526-000]

National Fuel Gas Supply Corporation; Application

October 13, 1983.

Take notice that on September 28, 1983, National Fuel Gas Supply Corporation (Applicant), 308 Seneca Street, Oil City, Pennsylvania 16301, filed in Docket No. CP83-526-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Public Service Electric & Gas Company (PSE&G) for its system supply, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to sell up to 50,000 Mcf of natural gas per day to PSE&G from November 1, 1983, through October 31, 1984. Applicant proposes to make such sales on an interruptible basis pursuant to its Rate Schedule I-1 under a service agreement for interruptible service attached to a precedent agreement dated September 26, 1983. Applicant states that the Rate Schedule I-1 rate is its 100% load factor rate and is currently $4.003 per Mcf.

Applicant states that the proposed sale will be made on terms consistent with each criterion in the Commission's *Statement of Policy* on off-system sales, issued April 25, 1983, in Docket No. PL82-3-000, except that the price will be a Applicant's 100% load factor rate instead of the average system load factor rate prescribed in the *Statement of Policy*. Applicant submits that its 100% load factor rate is appropriate because (1) the proposed sale made at the I-1 rate will not be made at a price lower than is available to on-system customers; (2) the proposed sale will reduce Applicant's existing average cost of gas; and (3) the Commission has determined in its Order Granting Rehearing issued September 16, 1983, in Docket No. CP83-217-001 that the I-1 rate was appropriate in a similar circumstance.

Applicant states further that the gas sold will be delivered to PSE&G through the facilities of Transcontinental Gas Pipe Line Corporation (Transco). Transco will receive the gas at Applicant's Wharton interconnection in Potter County, Pennsylvania, and transport the gas on an interruptible basis pursuant to self-implementing authorization under § 284.101, *et seq.*, of the Commission's Regulations for redelivery at Transco's existing delivery points to PSE&G.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authoriuty contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28384 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF83-446-000]

National Zinc Company; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 14, 1983.

On September 28, 1983, National Zinc Company, (Applicant) of Post Office Box 579, Bartlesville, Oklahoma 74005, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in Bartlesville, Oklahoma. The primary energy source for the facility will be natural gas. The initial stage of construction will consist of a combustion turbine generator and a waste heat recovery boiler to produce process steam. The second stage of construction, which may be delayed beyond the initial stage, will consist of adding a waste heat recovery boiler with a steam turbine. The useful thermal output from the facility will be 30,500 pounds per hours of process steam. The net electric power production capacity of the facility will be 19.7 megawatts in the initial stage of construction and 23 megawatts in the completed initial and second stages of contruction.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not service to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28384 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-766-000]

New England Power Pool; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on September 26, 1983, the New England Power Pool (NEPOOL) tendered for filing an Agreement Amending NEPOOL Agreement (Amendment), dated as of June 15, 1983, which modifies the provisions of the NEPOOL Agreement, dated as of September 1, 1971.

NEPOOL states that the Amendment changes Section 4.2 of the NEPOOL Agreement to make clear that a transfer by a participant of an entitlement interest in a generating unit to an affiliate will not be recognized, for pool purposes, if such transferee has a zero adjusted load or has a system generating capability which bears no reasonable relationship to its adjusted load. The Amendment also provides that substantially similar arrangements shall not be recognized for pool purposes and defines the terms "transferee" and "affiliate".

NEPOOL requests an effective date of December 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28386 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-5-000]

New York State Electric & Gas Corporation; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that New York State Electric & Gas Corporation, (NYSEG) on October 3, 1983, tendered for filing Supplement No. 1 to its Agreement with Consolidated Edision Company of New York, Inc. (Con Edison), designated FPC Schedule No. 34. The proposed changes would increase revenues by $534,071 based on the twelve month period ending April 30, 1981.

Pursuant to the original agreement, NYSEG, whose Mohansic Substation was connected to a 138 kV feeder of Con Edison, would operate, maintain, repair and replace specific substation and distribution facilities required by Con Edison to transfer energy from Con Edison's 138 kV Pleasant Valley-Millford line to 345 kV requiring NYSEG to construct a 345–115 kV substation, reenergize its 138 kV transmission system at 115 kV and establish new 115 kV transmission connections to Mohansic Substation from a new 115 kV switching station at Amawalk. Because of this new construction, NYSEG and Con Edison negotiated a new agreement with associated rate changes.

NYSEG requests an effective date of May 1, 1980, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Consolidated Edison company of New York and on the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28387 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-98-001]

Northwest Central Pipeline Corp.; Filing

October 13, 1983.

Take notice that on October 3, 1983, Northwest Central Pipeline Corporation (Northwest Central) tendered for filing First Revised Sheet No. 2B to its FERC Gas Tariff, Original Volume No. 2, to be made effective as of July 15, 1983.

On June 13, 1983, Northwest Central filed with the Commission in Docket No. RP83-98-000 Original Sheet Nos. 2A and 2B to Original Volume No. 2 of its FERC Gas Tariff to establish a rate for transportation service through Northwest Central's transmission system. By Order issued July 13, 1983, the Commission accepted these sheets for filing and suspended their effectiveness to July 15, 1983, subject to refund. The Commission's Order consolidated this proceeding with the pending proceedings in Docket Nos. RP83-75, RP83-42 and RP82-114 for hearing and decision on the justness and reasonableness of the rates.

On July 20, 1983, Northwest Central filed an Application in Docket No. CP83-431-000 pursuant to Section 7(c) of the Natural Gas Act for a Certificate of Public Convenience and Necessity authorizing the construction and operation of certain facilities and the transportation of natural gas for Farmland Industries, Inc. (Farmland). By letter order issued pursuant to § 375.307 on August 18, 1983, a Temporary Certificate was granted authorizing the installation of facilities and the transportation of natural gas described in the Application. The August 18, 1983 letter order made the proposed transportation rates subject to adjustment to reflect the final determination in Docket No. RP83-98-000. On August 22, 1983, the Temporary Certificate was accepted and service was initiated August 30, 1983. Appropriate notices have previously been filed with the Commission and by letter dated September 9, 1983, Northwest Central filed Rate Schedule X-22 to its FERC Gas Tariff Original Volume No. 2 pursuant to the Temporary Certificate.

Northwest Central tenders the instant filing to reflect the transportation on behalf of Farmland pursuant to the rate schedule in this docket. Northwest Central moves and respectfully requests the Commission to grant any waivers necessary to place the rates reflected on Original Sheet No. 2A and First Revised Sheet No. 2B into effect on July 15, 1983, subject to refund, as provided in the Commission's order issued July 13, 1983, in this docket and the Temporary Certificate issued in Docket No. CP83-431-000 on August 18, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28388 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-451-000]

Or-Sol Inc.—Inyo County, California; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 14, 1983.

On September 30, 1983, Or-Sol Inc., (Applicant) of c/o Ormat Engineering Inc., 1900 Washington Boulevard, Seattle, Washington 98101, filed with the Federal Energy Regulatory Commission (Commission)an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be a solar pond power plant located at the Owens Lake in Inyo County, California. The primary energy source for the facility will be solar insolation, with three to seven percent of the energy input being fuel oil or natural gas. The net electric power production capacity of the facility will be 20 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28387 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI83-447-000]

H.L. Richey; Application for Abandonment of Service

October 13, 1983.

Take notice that the Applicant listed herein has filed an application pursuant to Section 7 of the Natural Gas Act for authorization to abandon service as described herein, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before Nov. 3, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commssion will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on the application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that authorization for the proposed abandonment is required by the public convenience and

necessity. Where a petition for leave to interevene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI83-447-000, B, September 28, 1983.	H. L. Richey, P.O. Box 876, 109 University Place, Tyler, Texas 75710.	Union Texas Products Corporation, Coleman County Regular Field, Coleman County, Texas.	(1)	

[1] Present purchaser is unable to accept gas into its pipeline due to exceptionally high Nitrogen content of gas.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-28380 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-14-000]

Indianapolis Power & Light Company; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Indianapolis Power & Light Company (IPL) tendered for filing Modification No. 2 as of October 1, 1983 to the Interconnection Agreement with Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier) dated as of December 1, 1981 designated as Rate Schedule FERC No. 18.

IPL states that Modification No. 2 establishes a temporary delivery point known as the Honey Creek Tap Point and produces a rate for transmission use under an additional Service Schedule G. It is the intent that IPL's temporary service to Hoosier at the Honey Creek Tap Point be replaced as soon as practicable but within the 5-year term of Modification No. 2.

IPL requests an effective date of November 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to Hoosier and to the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28381 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-519-000]

United Gas Pipe Line Company; Request Under Blanket Authorization

October 14, 1983.

Take notice that on September 23, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-519-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to abandon in place approximately 1.28 miles of its Cameron 4-inch sales lateral which extends across the Calcasieu River in Cameron Parish, Louisiana, under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that the lateral to be abandoned consists of a dual pipeline crossing of the Calcasieu River and that the valves on either side of the crossing have been closed since November 1982 due to damages caused by heavy shipping traffic on the river. It is further stated that one customer, Zapata-Haynie Corporation, previously served through this lateral is presently being served through an exchange agreement between United and Dow Intrastate. Consequently, it is asserted, this abandonment will have no adverse impact on United's existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28386 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-19-000]

Wisconsin Electric Power Company; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 7, 1983, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing executed Service Agreements for Total Requirements—Conjunctive Billing Service and Transmission Service between the Company and Wisconsin Public Power, Inc. System (WPPI). The service agreements set forth service to WPPI. Conjunctive Billing agreement has an effective date of September 1, 1983, and the Transmission agreement has an effective date of October 1, 1983.

Wisconsin Electric requests waiver of the Commission's sixty-day notice requirement in order to allow the effective dates of September 1 and October 1, 1983.

Copies of the filing have been served on WPPI and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 625

North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28399 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-606-000]

Central Illinois Light Co., Refund Report

October 5, 1983.

Take notice that on September 20, 1983, Central Illinois Light Company ("CILCO") submitted for filing its Refund Report pursuant to the Commission's Letter Order dated July 20, 1983, in Docket Nos. ER80-592-000, ER80-606-000, ER81-39-000, ER83-205-000, ER82-630-000 and ER83-362-000.

CILCO states that it has made appropriate refunds, with interest, of all revenues collected in excess of the approved settlement rate levels.

Any persons desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 24, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28478 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-628-000]

Duquesne Light Co., Refund Report

October 5, 1983.

Take notice that on September 12, 1983, Duquesne Light Company submitted for filing a Refund Report in compliance with a Commission Order dated May 27, 1983.

Attachment No. 1 of the Refund Report contains revenue calculations showing monthly billing, determinants and revenues under prior and present settlement rates.

Attachment No. 2 contains the calculation of refund amounts of West Penn Power Company for the billing period of March, 1982 through February, 1983, as well as the monthly revenue refunds, the monthly interest computation and a summary of such information for the total refund period.

Duquesne further states that no refunds are due to Ohio Power Company because no resale transactions were conducted with Ohio Power Company under the rate schedules filed with the Commission during the refund period in Docket No. ER80-628-000.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 24, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28479 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-6-000]

Pacific Gas & Electric Co.; Filing

October 6, 1983.

Take notice that on October 3, 1983, Pacific Gas & Electric Company ("PG&E") submitted for filing an initial rate schedule covering those services to be rendered by PG&E under the contract entitled "Interconnection Agreement Between Pacific Gas and Electric Company and the City of Santa Clara" (the "Interconnection Agreement").

PG&E states that the Interconnection Agreement which was executed on September 30, 1983, provides Santa Clara with firm and interruptible transmission service, partial requirements power, emergency power, maintenance power, short-term firm power, Geysers curtailment power and reserves. The term of the Interconnection Agreement is 30 years from its effective date, unless terminated earlier or not less than three years advance written notice of termination by either PG&E or Santa Clara. The parties are filing a joint motion requesting prior Commission approval of termination, in accordance with Article 9.4 of the Interconnection Agreement.

PG&E further states that copies of this filing have been served upon Santa Clara and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests must be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28483 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP74-35-003]

Pacific Offshore Pipeline Co.; Filing

October 5, 1983.

Take notice that on September 15, 1983, Pacific Offshore Pipeline Company (POPCO) tendered for filing its initial rate in its FERC Gas Tariff, Volume No. 1, for service from its Hondo-Las Flores Canyon offshore gas project, as certificated in this docket.

The reason for submittal of the initial rate filing is that gas is expected to commence flowing from the production platform on or after November 15, 1983, and the project facilities will commence operations upon the flow of gas. Under Commission Order dated March 17, 1981, POPCO is required to file its FERC Gas Tariff prior to 60 days of the commencement of gas sales, reflecting an initial rate based upon an up-to-date three-year estimate of the cost-of-service. This tariff is submitted in compliance therewith.

Copies of the filing were served upon the company's sole purchaser under this FERC Gas Tariff, Southern California Gas Company.

Any person desiring to be heard or to protest said filing should should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 24, 1983. Protests

will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28481 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-24-000]

Pacific Power and Light Co., Application

October 5, 1983.

Take notice that on September 20, 1983, Pacific Power and Light Company ("PP&L") submitted for filing its "Application Seeking Authorization To Sell To The Emerald People's Utility District, Pleasant Hill, Oregon."

PP&L states that the Application is for an order of the Commission approving and authorizing the sale, by PP&L, to the Emerald People's Utility District ("The District") of a portion of PP&L's facilities which are subject to FERC jurisdiction. The facilities consist of certain electric transmission facilities, including transmission substations, poles, lines, transformers and all easements necessary for the operation thereof.

PP&L further states that consideration for electric transmission and distribution facilities to be sold is in the sum of $26,152,000.

An application with respect to this sell by Applicant to The District has been filed with the Public Utility Commissioner of Oregon.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28480 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-40-000]

Raton Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 5, 1983.

Take notice that on September 19, 1983, Raton Natural Gas Pipeline Company (Raton) tendered for filing a request to withdraw the following filings, all made on August 31, 1983:

Third Revised Sheet No. 20a
Fourth Revised Sheet No. 20b
Second Revised Sheet No. 20c

Raton also submits for refiling the following:

Third Revised Sheet No. 20c superseding Second Revised Sheet No. 20c

A copy of this filing has been mailed to Raton's only customer, Midwest Energy Corporation and the Public Service Commission of New Mexico.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28482 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

Transwestern Pipeline Co. et al.; Order Instituting Section 5 Investigation and Denying Petitions for Consolidation in Part and Stay of Proceedings

Issued: September 30, 1983.

In the matter of Transwestern Pipeline Co., Docket No. RP83-106-000*; El Paso Natural Gas Co., Docket No. RP83-100-000*; Transwestern Pipeline Co., Docket No. RP81-130-000* *et al.*; Pacific Gas Transmission Co., Docket No. RP83-113-000; Pacific Interstate Transmission Co., Docket No. RP83-135-000; and Pacific Offshore Production Co., Docket No. RP83-136-000.

On July 1, 1983, Transwestern Pipeline Company (Transwestern) filed a petition with the Commission for consolidation of the proceedings in *Transwestern Pipeline Company*, Docket No. RP81-130-000, *et al.*, with the filing made by El Paso Natural Gas Company in Docket No. RP83-100-000. The former proceedings pertain to consideration of the justness and reasonableness of Transwestern's minimum bill provisions with Pacific Lighting Gas Supply Company (PLGS), whereas the latter proceeding relates to a change in El Paso's minimum bills to Southern California Gas Company (SoCal) and Pacific Gas and Electric Company (PG&E) filed on June 17, 1983 with the Commission. Transwestern also petitions, in connection with the consolidated proceedings, for the institution of a proceeding under section 5 of the Natural Gas Act, 15 U.S.C. 717d, to inquire into the terms and conditions (including minimum bill provisions) of service rendered by all affiliates of PLGS relating to the California natural gas market.

Transwestern notes that PLGS receives gas from three major interstate suppliers, other than Transwestern: Pacific Interstate Transmission Company (PITCO) purchases gas produced in Canada and delivers it to its affiliate, PLGS, in California; Pacific Offshore Production Company (POPCO) has been certificated to sell to PLGS, also its affiliate, certain gas produced offshore California; and, finally, El Paso sells gas to PLGS.

In addition, Transwestern requests a stay of proceedings pending in *Transwestern*, Docket Nos. RP81-130, *et al.*, to permit consolidation of the aforementioned minimum bill inquiries. Alternatively, as the evidentiary hearing in Docket No. RP81-130, *et al.* commenced on June 28, 1983, Transwestern requests that the record be held open, pending conclusion of the hearings in conjunction with El Paso's minimum bill filing and the section 5 proceedings against PLGS's affiliate suppliers.

Transwestern maintains that the consolidation and investigation it seeks are essential for the just resolution of the currently pending proceedings concerning its minimum bill provisions. Transwestern contends that it could experience irreparable injury if consolidation of the above-mentioned proceedings is not granted. In this regard, Transwestern submits that it should be protected under the *Ashbacker* doctrine [1] in that a "decision

*Not consolidated.

[1] Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1946).

in one proceeding outside the context of and without full consideration on the record of the other could unduly prejudice the other party." Transwestern further contends that failure to consolidate would result in unnecessary duplication of effort by all involved in the various proceedings.

On July 18, 1983, El Paso filed an answer to Transwestern's petition not only supporting Transwestern's request for consolidation of proceedings but also requesting institution of a consolidated section 5 investigation to include the minimum bill obligations of PG&E, particularly those with its affiliate, Pacific Gas Transmission Company (PGT), since El Paso's filing in Docket No. RP83–100–000 affects not only El Paso's filing in Docket No. RP83–100–000 affects not only El Paso's minimum bill to PLGS's affiliate, SoCal, but also that to PG&E. El Paso contends that if Transwestern's petitions were granted, the proceeding would involve an incomplete investigation of the minimum bill/minimum take obligations of the principal suppliers of natural gas to the California market. Consequently, El Paso requests that the Commission grant Transwestern's petition and also institute a consolidated investigation under section 5(a) of the Natural Gas Act concerning the propriety of the minimum take obligations which PG&E has with its other principal suppliers. However, on September 8, 1983, El Paso amended its answer to delete the request to consolidate, and to delay resolution of the *Transwestern* proceeding in Docket No. RP81–130, *et al.*

The public notice of the Transwestern filing was issued on July 13, 1983 providing for petitions to intervene or protests to be filed on or before July 21, 1983. Responses to that notice were filed by those parties listed in Appendix A. Public notice of El Paso's answer and petition was issued on July 27, 1983 providing for petitions to intervene or protests to be filed on or before August 11, 1983. Responses to that notice were filed by those parties listed in Appendix B. Pursuant to Rule 214, 18 CFR 384.214, any timely filed motions to intervene are granted unless opposed by pleading within 15 days of the date such motion is filed.

In both cases, Southern California Edison Company's motions were filed out of time requesting that intervention be granted. Attorney General John K. Van de Kamp and Phillips Petroleum Company also filed motions to file interventions out of time in response to the El Paso notice. As there will be no disruption of the proceedings and as there will be no prejudice or additional burdens placed upon the existing parties, intervention is granted.

In addition to petitioning for intervention, certain parties listed in Appendix C protested the filings of Transwestern or El Paso, and those parties listed in Appendix D supported the filing of Transwestern or El Paso.

Consolidation

The Commission recently issued an order in *El Paso*, Docket No. RP83–100 on September 21, 1983, summarily disposing of that proceeding. Accordingly, the petition of Transwestern for consolidation of its case in Docket Nos. RP81–130, *et al.* with that proceeding is moot.

Section 5 Investigation

The protestors submit that a pipeline does not have standing under the Natural Gas Act to initiate a section 5 inquiry. Furthermore, they state that the purpose of the Natural Gas Act is to protect gas consumers, not pipeline companies. Also, the protestors assert that a pipeline should not be able to enhance its competitive position vis-a-vis other pipelines through a section 5 proceeding.

The Commission agrees with the position of the protestors that the Natural Gas Act does not give Transwestern or El Paso the right to file a complaint initiating a section 5 investigation as neither is a "state, municipality, State commission or gas distributing company." [2] Accordingly, the petitions are interpreted as requests for the Commission to institute a section 5 investigation on its own motion, which is solely within the Commission's discretion.[3]

PITCO, POPCO, SoCal and PLGS all contend that the Transwestern petition is untimely, would be duplicative and wasteful since the Commission fully reviewed their supplier arrangements in granting certificates to them. Purchases of Canadian gas by PITCO were certificated by the Commission in *Northwest Alaskan Pipeline Co.*, in Docket No. CP78–123.[4] The Commission granted a certificate to POPCO in *Pacific Offshore Pipeline Company* in Docket No. CP74–35.[5]

PGT and PG&E submit that granting El Paso's request would only hinder and perhaps prevent real and meaningful solutions to the problems of the northern California gas market. They state that there is no relationship whatsoever between either of them and Transwestern. First, they state that PGT supplies gas only to northern and central California from Canadian purchases whereas Transwestern only supplies gas to southern California. They see no need for them to become involved in a dispute between interstate pipeline suppliers to the southern California market. Second, they state that any change in the minimum purchase provision in PGT's tariff would seriously disrupt contractual negotiations with Canadian producers and ongoing bilateral discussions between the United States and Canadian government which can lead to greater flexibility in Canadian supply arrangements. Third, they argue that duplication and possible conflict would occur with recently announced gas import proceedings before the Economic Regulatory Administration (ERA).

The Commission is unpersuaded by the arguments of the protestors. We find there to be a need to inquire into the minimum purchase/minimum take provisions which PITCO, POPCO, and PGT have with their natural gas purchasers. We believe a Section 5 proceeding is necessary to ascertain whether these minimum bill/minimum take provisions are appropriate in light of today's natural gas market. Further, the Commission finds that a formal proceeding is necessary to get accurate information upon which to make such a determination. As to the issue of possible conflict with proceedings at the ERA, the Commission finds that this issue can and should be considered in the development of the evidentiary record in this case and in the Commission's final decision in this proceeding. Accordingly, we shall institute an investigation under Section 5 of the NGA to determine if the above mentioned provisions are unjust, unreasonable, unduly discriminatory or preferential, and if so found, what remedies might be appropriate. But we are convinced that the *Transwestern* proceedings in Docket Nos. RP81–130, *et al.* should not be delayed. The Transwestern proceedings have been going on for approximately two years. The hearing in that proceeding closed on July 29, 1983. Extensive discovery has been conducted, prepared testimony has been filed and received into the record and cross-examination of that testimony has been conducted. The record is those proceedings is nearing completion. Consolidation of those proceedings with the above mentioned inquiry would require that there be a long delay of the

[2] 15 U.S.C. 717d(a).

[3] General Motors Corp. v. F.P.C., 613 F. 2d 939 (D.C. Cir. 1979).

[4] 10 FERC ¶61,032 (January 11, 1980) and 11 FERC ¶61,279 (June 13, 1980).

[5] 14 FERC ¶61,239A (March 17, 1981); 15 FERC ¶61,235; and 18 FERC ¶61,070 (January 25, 1982).

resolution of the issues in the former as time would have to be granted for discovery and hearing procedures to take place in the latter. The proceedings in Docket No. RP81–130, *et al.*, would virtually come to a halt.

Transwestern argues that failure to consolidate will result in unnecessary duplication in the development of the required records of the proceedings. The Commission believes that the opposite result would occur. To halt the proceedings in Docket Nos. RP81–130, *et al.*, in the last steps of hearing and to hold it is abeyance until the other is heard will create far more duplication and delay.

Finally, the public interest favors the denial of consolidation as well as the request for a stay. Given the advanced stage of the proceedings in Docket No. RP81–130, the failure of Transwestern to demostrate irreparable harm, and the possibility of harm due to a halt of those proceedings, we do not believe that the public interest would be served in consolidating the proceedings in Docket No. RP81–130, *et al.*, with that of a section 5(a) inquiry or staying the former until the record in developed in the latter.

For the above reasons, Transwestern's alternative request that the record of the proceedings in Docket No. RP81–130, *et al.*, be held open for consideration with the section 5(a) case must also be denied.

The Commission orders:

(A) Docket Nos. RP83–113, RP83–135 and RP83–136 are consolidated for purposes of hearing and decision.

(B) Pursuant to the Natural Gas Act, particularly Section 5 thereof, a hearing in Docket Nos. RP83–113, RP83–135 and RP83–136 is established to determine if the minimum purchase/minimum take provisions which PITCO, POPCO, and PGT have with their natural gas purchasers are unjust, unreasonable, unduly discriminatory or preferential.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 375.304), shall convene a prehearing conference to be held within 45 days after the date of this order in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426 to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever or dismiss), as provided for in the Rules of Practice and Procedure.

(D) The request for consolidation of the proceedings in Docket No. RP81–130 with that of Docket No. RP83–100 by Transwestern Pipeline Company is denied.

(E) The request for a stay of the proceedings in Docket No. RP81–130, *et al., by Transwestern Pipeline Company is denied.*

(F) The request that the record in the proceedings of Docket No. RP81–130, *et al.*, be held open pending conclusion of the Section 5 proceeding is denied.

(G) Docket No. RP83–106 is hereby terminated.

By the Commission. Commissioner Sousa concurred in part and dissented in part.

Kenneth F. Plumb,

Secretary.

Appendix A

Southwest Gas Corporation
Pacific Gas Transmission Company
Pacific Gas and Electric Company
Northwest Central Pipeline Corporation
Public Utilities Commission of the State of California
Southern California Gas Company
Pacific Lighting Gas Supply Company
Southern Union Gas Company
Gas Company of New Mexico
El Paso Natural Gas Company
Arizona Public Service Company
San Diego Gas & Electric Company
Southern Union Gas Company
Southern California Edison Company
Gas Service Company
Governor George Deukmejian
Pacific Interstate Transmission Company
Pacific Offshore Pipeline Company

Appendix B

Gas Company of New Mexico
Southern Union Gas Company
Public Utilities Commission of the State of California
Pacific Gas Transmission Company
Samson Resources Company
Southern California Gas Company
Pacific Lighting Gas Supply Company
Arizona Public Service Company
Attorney General John K. Van de Kamp
Independent Petroleum Association of New Mexico
Hassell Energy Company
Ward Petroleum Corporation
Oklahoma Independent Petroleum Association
Railroad Commission of Texas
Phillips Petroleum Company
Raulo Petroleum Corporation
Oklahoma Corporation Commission
Southern California Edison Company
Southwest Gas Corporation
Pacific Interstate Transmission Company
Pacific Offshore Pipeline Company

Appendix C

Southern California Gas Company
Pacific Lighting Gas Supply Company
Gas Service Company
Governor George Deukmejian
Pacific Interstate Transmission Company
Pacific Offshore Pipeline Company
Public Utilities Commission of the State of California
Pacific Gas Transmission Company
Attorney General John K. Van de Kamp
Pacific Offshore Pipeline Company

Appendix D

Southern Union Gas Company
Gas Company of New Mexico
El Paso Natural Gas Company
Arizona Public Service Company
Samson Resources Company
Independent Petroleum Association of New Mexico
Hassell Energy Company
Ward Petroleum Corporation
Oklahoma Independent petroleum Association
Railroad Commission of Texas

[FR Doc. 83-28448 Filed 10-18-83; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/10E; PH-FRI 2453-1]

Intent To Cancel Pesticide Products Containing Lindane; Denial of Applications for Registration of Pesticide Products Containing Lindane; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to cancel; notice of denial of applications for registration; notice of determination; notice of availability of position document.

SUMMARY: Lindane-containing products are registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* On February 17, 1977, EPA initiated an RPAR process to consider whether the registrations for lindane products should be cancelled or modified. This notice concludes that RPAR process and announces the Administrator's intent to cancel the registrations of lindane for two uses, to continue the registration of all other uses sbject to certain label requirements and use practice prohibitions, and to deny applications for registration of lindane products not in accordance with the terms of this Notice.

DATE: Requests by a registrant or applicant for registration for a hearing must be received on or before November 18, 1983 or within 30 days from receipt by mail of this Notice, whichever occurs later. Requests for a hearing by any other adversely affected party must be received on or before November 18, 1983.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A–110).

Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail Jeff Kempter, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7451).

Copies of the Decision Document are available upon request.

The administrative record containing public comments and publicly released Agency documents is available for public inspection from 8:00 am to 4:00 pm, Monday through Friday, except legal holidays in: Room 711E, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA sections 3(a) and 12(a)(1). A pesticide registration is a license allowing a pesticide product to be sold and distributed for a specified use or uses in accordance with label instructions and precautions and other terms and conditions of registration. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment," FIFRA section 3(c)(5), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide." FIFRA section 2(bb). Thus, to support an application for initial registration and to maintain an existing registration, the benefits of each of its uses must exceed the risks of that use when the product is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide product satisfies the standard for registration is on the proponents of initial or continued registration.

Under FIFRA section 6, the Administrator of the Environmental Protection Agency (EPA, Agency) may cancel the registration of a pesticide product or modify the terms and conditions of its registration whenever it is determined that the pesticide product causes unreasonable adverse effects on the enviroment. The Agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide products (or uses thereof) which may not satisfy the statutory standard for registration, and to provide an informal procedure through which to gather and evaluate information about the risks and benefits of these products and uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11.

A rebuttable presumption arises if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces an RPAR by issuing a notice of determination in the **Federal Register** and by issuing a Position Document (PD 1), detailing the Agency's position and concerns. Registrants and other interested persons are invited to review the data upon which the presumption is based and to sumbit data and information to rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment. In addition to submitting evidence to rebut the risk presumption, respondents may submit evidence concerning the economic, social and environmental benefits of the use of the pesticide.

The RPAR process is concluded with a notice of determination in which the Agency states and explains its decision as to whether the presumption of risk has been rebutted. If all presumptions of risk are successfully rebutted, the RPAR is concluded and no regulatory action is commenced. If the Agency determines that any presumption of risk is not rebutted, the notice of determination contains an evaluation of the information available to the Agency concerning the social, economic, and environmental costs and benefits of continued use of the pesticide for each use pattern. In determining whether each use of such a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risk and the impacts of such modifications on the benfits of the use. The Agency's determination is typically developed through a two-step process; the Position Document 2/3 (PD 2/3) contains the Agency's preliminary determinations and solicits comments and further information. The PD 2/3 is submitted to the Secretary of Agriculture (USDA) and to the FIFRA Scientific Advisory Panel (SAP) for the statutorily required reviews of a proposed notice of intent to cancel registration of a pesticide. FIFRA sections 6(b) and 25(d).

The Position Document 4 (PD 4) presents the final determination of the Agency. The final notice of determination may include a notice of intent to cancel the registrations of currently registered pesticide products and to deny applications for the registration of new products. It may also set out conditions which, if fulfilled by the registrant, would be adequate to bring the registration into compliance with the statutory requirements and thus avoid cancellation or denial of registration. The final notice may also require that the registration of the pesticide be reclassified from general to restricted use pursuant to FIFRA section 3(d)(2). In the event of a notice of intent to cancel, deny or reclassify the registration or application for registration of a pesticide product, any person adversely affected by the action may request an administrative hearing to challenge the action pursuant to FIFRA sections 6 (b) and (d).

B. Factual Background

On February 17, 1977, the Environmental Protection Agency issued in the **Federal Register** (42 FR 9816) a Notice of Rebuttable Presumption Against Registration (RPAR) and Continued Registration of Pesticide Products Containing Lindane. 42 FR 9816. The Agency took this action because risk criteria had been met or exceeded in three areas: (1) Acute toxicity to aquatic organisms [40 CFR 162.11(a)(3)(i)(B)(3)], (2) oncogenic effects in test animals [40 CFR 162.11(a)(3)(ii)(A)] and (3) chronic and/or delayed toxicity causing reproductive or fetotoxic effects in test animals [40 CFR 162.11(a)(3)(ii)(B)]. In addition to these criteria, the RPAR Notice listed four other possible adverse effects of lindane for which insufficient evidence existed to initiate a rebuttable presumption. The Agency requested registrants and other interested parties to submit data on the following effects: (1) Mutagenicity, (2) blood dyscrasias, (3) acute hazards to humans and domestic animals, and (4) population reduction in non-target avian species. Information was solicited also on the issue of the possible isomerization of lindane (gamma—BHC) to the alpha and beta isomers of BHC which have been shown to be oncogenic in rodents published in the **Federal Register** of July 21, 1978 (43 FR 31432).

As a result of the 1977 RPAR Notice, the Agency received numerous comments from interested parties regarding the risks and benefits which

result from the pesticidal uses of lindane. The Agency reviewed all comments and additional data received in response to the RPAR Notice, and issued a notice which was published in the **Federal Register** of July 3, 1980, (45 FR 45362) a "Preliminary Notice of Determination" for lindane. The detailed rationale for the Agency's proposed determination was contained in the lindane Position Document 2/3 (PD 2/3). (The human pharmaceutical use of lindane for treatment of lice and scabies is not affected by this RPAR determination since it has been under the jurisdiction of the U.S Food and Drug Administration since 1979. 44 FR 63749.) At that time, the Agency determined that the benefits from the use of lindane were outweighted by the risks of oncogenicity and reproductive and fetotoxic effects. In addition, the Agency was also concerned (although RPAR criteria were not exceeded) about acute central nervous system effects and about childhood sensitivity to the toxic effects of lindane. Existing data did not support presumptions that lindane caused acute hazards to aquatic wildlife, that lindane was mutagenic, that lindane was linked to blood dyscrasia or that lindane was isomerized to more toxic compounds by microbial or eukaryotic organisms of any kind.

As required by FIFRA, the Agency submitted its findings to the Scientific Advisory Panel (SAP), to the U.S. Department of Agriculture (USDA) and to interested parties for review and comment. The SAP held public meetings concerning the lindane proposed determination on July 24, August 13, and August 14, 1980 and heard presentations by the Agency, registrants and other interested members of the public. Both the SAP and USDA submitted comments on the lindane PD 2/3 to EPA. Their comments are presented with the Agency's responses in Unit IV of this Notice. After receiving numerous comments from these respective groups, the Agency reconsidered the extent to which risks were offset by social, economic, or environmental benefits and whether regulatory action might reduce risks without affecting the benefits of lindane's use.

A draft PD 4 dated February 23, 1983 was sent to several governmental, industry and environmental groups as well as members of the former SAP for comments because of the substantial changes being proposed from the regulatory position taken in the PD 2/3. (Congressional authorization of the Scientific Advisory Panel terminated as of September 30, 1981. See FIFRA section 25(d)). Comments received on that draft PD 4 were carefully considered by the Agency in the development of the Agency's final regulatory decision.

C. Content of This Notice

The Agency is initiating the following regulatory actions in this Notice.

(1) Cancel indoor use of lindane smoke fumigation devices.

(2) Cancel use of lindane dog dips for control of all pests except mites.

(3) Classify for restricted use the lindane uses for commercial ornamentals, avocados, pecans, livestock, Christmas trees, forestry, structural treatments, and dog shampoos and dusts, as well as require specified label amendments and protective clothing for applicators for these uses.

(4) Require specific label modifications, as appropriate, for all other lindane uses in order to reduce risks.

(5) Require mutagenicity data to be submitted.

The detailed rationale for the Agency's determinations is set forth in Position Document 4 (PD 4).

Unit II of this Notice provides a summary of the risk and benefits of the pesticidal uses of lindane. Unit III presents the Agency's regulatory decision. Unit IV sets out the comments on the PD 2/3 submitted to the Agency by the Secretary of Agriculture and members of the former Scientific Advisory Panel and the Agency's responses to those comments. Unit V of this Notice sets out the procedures by which a registrant or other person adversely affected by this Notice may request a hearing to challenge the actions proposed in this Notice. Unit V also sets out the procedures which registrants should follow in seeking amendments of their registration to conform to the requirements of this Notice in order to continue their registrations for those uses of lindane retained under this Notice.

II. Summary of Risks and Benefits of the Pesticidal Use of Lindane

The Agency, in reaching the decisions set out in this Notice, has considered information on the health risks, evironmental effects and the economic and social benefits associated with the pesticidal uses of linedane. Information was submitted by the United States Department of Agriculture, and the Scientific Advisory Panel, the Centre International d'Etudes de lindane, the California Department of Food and Agriculture, the Food and Drug Administration, the Natural Resources Defense Council, the National Audubon Society, and numerous other interested parties. The Agency's detailed assessments of risks and benefits and its regulatory conclusions are set forth in the lindane Position Document 4. That document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice and as its analysis of the impacts of the proposed regulatory actions on human and evironmental health as well as on the agricultural and industrial economy. For the reasons summarized below, and described in detail in PD 4, the determinations of the Agency on lindane are as follows.

A. Determinations of Risk

The Agency has made the following conclusions regarding the potential of lindane to cause oncogenicity, fetotoxicity and adverse reproductive effects, acute hazards to man and domestic animals, acute toxicity to wildlife, mutagenicity, and regarding the susceptibility of children to lindane and the association of lindane with blood dyscrasias.

1. *Oncogenicity.* After an exhaustive study of available data, the Agency believes that lindane should be considered to have the potential for inducing carcinogenic effects in humans. There is positive evidence that lindane causes liver tumors in mice based on two lifetime feeding studies. Two subchronic studies provide supportive evidence on oncogenicity consistent with that found in the lifetime studies. In addition, a metabolite of lindane, 2,4,6-trichlorophenol, has been shown to cause carcinogenic effects in rats and mice. There is no evidence that lindane is carcinogenic to rats.

2. *Fetotoxicity and reproductive effects.* The Agency's concern that lindane might cause adverse reproductive effects, as distinguished from fetal effects, has been successfully rebutted. Adverse fetal effects do occur, but only at or above doses that also cause general toxic effects in the mother.

The presumption that lindane might cause reproductive or fetotoxic effects was originally based on three studies. In the preliminary determination (PD 2/3), EPA concluded that, due to a number of serious flaws in certain feeding studies, data were inadequate to assess the reproductive effects of lindane. One study was still considered to provide unrebutted evidence of fetotoxicity. However, a number of technical inadequacies in the study precluded its use to calculate a maternal or fetotoxic no observable effect level (NOEL). That

study was used in a qualitative sense by the Agency when it set the maternal NOEL at 5 mg/kg/day.

Subsequent to the presentation of the PD 2/3 to the SAP and after thorough reevaluation of the eight studies submitted in rebuttal to the Agency's PD 1 and PD 2/3 positions, the Agency has concluded that lindane does not cause reproductive effects, but that it does cause adverse fetal effects in test animals. The fetal effects occur only at or above doses that also cause general toxic effects in the mother. From a regulatory standpoint, the Agency has concluded that by protecting mothers from acute toxic effects, it will also simultaneously be protecting fetuses from possible adverse effects.

3. *Acute and subacute hazards to humans and domestic animals.* The Agency based its original concern regarding the acute effects of lindane on numerous studies in humans and animals which show that lindane causes symptoms of acute and subacute toxicity typical of central nervous system (CNS) effects. In PD 2/3, the Agency determined a NOEL of 2.5 mg/kg/day based on two studies. Subsequent to PD 2/3, commenters listed a number of serious deficiencies which they believed precluded the use of one of the studies (Hayes) to establish a NOEL. The Agency has reevaluated the studies and concluded that they can not be used to establish a NOEL. Although the Hayes study is not used to calculate a NOEL, it does support the Agency's original conclusion in PD 2/3 that humans and animals with similar exposure to lindane are likely to exhibit similar signs of toxicity.

The Agency has determined that the no effect level for general toxicity, found in the reproductive studies, is 5 mg/kg/day. Clinical evidence from the pharmaceutical uses of lindane suggests that exposures even higher than 5 mg/kg/day do not usually result in acute neurotoxic symptoms.

4. *Sensitivity of children to lindane.* Some commenters disputed the Agency's concern in PD 2/3 that children are more sensitive to the toxic effects of lindane than adults. Since there were serious differences in the interpretations of data, EPA reconsidered the issue of childhood sensitivity.

Children have a higher ratio of body surface area to body weight than do adults. Equivalent doses (per surface area) of lindane, applied to adults and children, produce a greater mg/kg/body weight dose to children. In addition, children lack mature hepatic conjugating enzymes for detoxification and excretion. Finally, a child's skin has greater permeability than an adult's. Thus, theoretically, toxicity could be enhanced. The pertinent studies all have serious deficiencies which preclude their use to make definitive statements regarding a unique childhood sensitivity to lindane. The Agency also reviewed the clinical reports, many of which involved children. Due to a vast array of diagnostic and observational variations and conditions, these reports did not allow for quantification of risk to children. The available data do, however, support the Agency's concern that children are more susceptible to the toxic effects of pesticides in general.

5. *Blood dyscrasias.* In the preliminary determination (PD 2/3) the Agency indicated that there were insufficient data to establish a cause and effect relationship between exposure to lindane and blood dyscrasias. The Agency also indicated that two epidemiological studies, which were in progress at that time, were intended to provide information regarding that relationship. Since that time the Agency has received a final report from one study in Iowa and the first draft of a second study being conducted in Hawaii. The results of the first study and preliminary data from the second study show that there is no statistically significant association between chronic exposure to lindane and the incidence of blood dyscrasias (including aplastic anemia).

6. *Acute toxicity to wildlife.* The Agency's original presumption of acute toxicity to aquatic wildlife was withdrawn in the preliminary determination. This was due to the fact that there were no lindane products registered for direct aquatic use. Since lindane is highly toxic to aquatic wildlife, the Agency is chiefly concerned about avoiding misuse or application practices that could result in drift or runoff. Therefore, even though the original presumption was withdrawn, the Agency will require label prohibitions against application practices which could result in drift or runoff. Such practices might include improper disposal of excess dip solution or aerial applications.

7. *Possible reductions in populations of non-target avian species.* There are no new data available to the Agency to support a presumption of population reduction of non-target avian species. The Agency maintains its position that there is currently no reason to believe lindane is causing reductions in populations of non-target avian species.

8. *Possible isomerization.* Since other isomers of BHC (alpha and beta) are carcinogenic, the Agency was concerned that lindane might isomerize to a more harmful form. EPA has concluded that the isomerization of lindane has not been established.

9. *General toxicity.* In the Notice of RPAR (PD 1) and the preliminary determination (PD 2/3), the general toxic effects of lindane were determined not to meet the RPAR criteria. Therefore, and Agency did not perform a complete review of lindane's general toxic effects. A three-month, subchronic oral feeding study in rats recently submitted to the Agency indicates a NOEL of 0.3 mg/kg/day with kidney damage at the next highest dose. In order to evaluate this study properly, it will be necessary for the Agency to review thoroughly the chronic and sub-chronic data base, which was not done as part of this RPAR. The Agency has decided not to delay the implementation of the regulatory measures contained in this Notice. However, the Agency will give high priority to the development of a Registration Standard for lindane which will include a complete review of lindane's general toxic effects.

10. *Mutagenicity.* In the Notice of RPAR (PD 1) and the preliminary determinations (PD 2/3), lindane was determined not to meet the RPAR criterion for mutagenicity. However, available mutagenicity studies on lindane were reviewed because of their bearing on the carcinogenicity issue. The review showed limited evidence for lindane's mutagenicity. Because of the lack of certain tests, a conclusive evaluation of lindane's mutagenicity was not possible. Consequently, further tests will be required to provide a more complete data base.

B. Exposure Analysis

The exposure estimates used in the PD 4, in many instances, have been changed from those used in the PD 2/3. These changes were based on three general factors: (1) Better data, including better surrogate data and new exposure information submitted after publication of the preliminary determination; (2) use of commonly accepted use practices rather than worst-case use practices because better data were available to replace theoretical assumptions used in the PD 2/3; and (3) acknowledgment of those uses in which protective clothing is routinely worn. This latter factor helped the Agency determine that protective clothing requirements will not require changes in use practices and assured the Agency that imposing protective clothing requirements for other uses will be effective in reducing risks.

1. *Applicator exposure.* Applicator exposure estimates (excluding dietary)

were calculated for the major uses of lindane: avocados, pecans, commerical ornamentals, forestry, homeowner ornamentals, foliar an stump/slash applications to Christmas trees, structural applications, dip applications (livestock, lumber, pet dips and shampoos), enclosed area sprays (moth sprays, uninhabited buildings and storage bins), dust applications (seed treatments and pet dusts), cucurbits, pineapples, and several household products. The details of these calculations are contained in Appendix III of PD 4.

2. *Dietary exposure.* The Agency's PD 2/3 estimate of dietary exposure was taken from the Food and Drug Administration's market (Total Diet Composites) survey for the years 1972 to 1975. Comments were received which indicate that more recent data should be used. The Agency agrees that the more recent data should be used and, therefore, has estimated dietary exposure from FDA data for the years 1976–1980. In addition, a second estimate has been made using the entire FDA data base of 1964–1980. For the period 1976–1980 the dietary exposure estimate is 0.003 ug/kg bw/day. The extimate for the entire data base (1964–1980) is 0.016 ug/kg/day. Details of the dietary assessment are contained in PD 4 (Table 5).

C. Determinations of Benefits

The Agency's determination of benefits was completed in June, 1978 and was expressed in terms of 1975–1976 dollar values. Although the benefits analysis was not updated in the PD 4 (except for a few cases), the Agency has concluded that the economic estimates are understated. The nominal dollar measure of impacts is larger due to inflation and to the conservative methods of assessment in PD 2/3.

The Agency received 141 comments in response to the PD 2/3. The vast majority addressed the high benefits of using lindane and the lack of alternatives for these uses.

1. *High Benefit Uses*

High benefit uses of lindane are defined by the Agency as those uses for which cancellation would result in significant impacts and for which there are no alternatives. High benefit uses are summarized as follows:

a. *Woody ornamentals, including Christmas trees.* The Agency estimates that cancellation of the use of lindane on woody ornamentals would have a $20.6 million economic impact due to borer damage. Lindane is the only pesticide registered to control all borers in all woody ornamentals. For Christmas trees and increased cost of $0.20–$1.70 per acre would result form the substitution of the alternative, osydimetomethyl, for lindane. There are no alternatives for use against certain beetles.

b. *Forestry.* Small, privately owned, southern forest areas would be the hardest hit economically by a cancellation of lindane for forest use since forest mangaers rely heavily on chemical control and cannot gernerally afford labor-intensive cultural management practices. There are no alternatives for control of various bark beetles.

c. *Seed treatment.* Major regional impacts for spring-planted small grains at the user level from wireworm infestation would result from cancellation. If significant production losses were to occur, there could be major small grain market level impacts. For lentils and dry peas, there are no alteratives to lindane seed treatment. The benefits of lindane seed treatment on small grains, lentils, and dry peas cannot be accurately quantified due to a lack of data. The Agency's position is that the estimated benefit for corn seed treatment is $690,000.

d. *Structures.* Lindane contains efective properties for the control of power post beetles. The alternatives are significantly more expensive and inconvenient.

e. *Avocados.* Lindane is used on up to 90 percent of the Florida avocado crop on an annual basis to control mirids. There are no registered alternatives for control of this pest. The unavailability of lindane was estimated to result in producer losses of $8.7 million due to downgrading and fruit loss. The impacts of cancellation would be moderate in most growing regions, but severe in Florida.

f. *Historic preservation.* There are no alternatives for the control of powder post beetles.

g. *Hardwood logs and lumber.* The Agency calculated the approximate no-alternative impact of the cancellation of lindane to be $247 million in 1980 dollars. Figures are not available on the potential impact of the recent registration of endosulfan as a control for hardwood lumber destroying beetles. Endosulfan will cost approximately $0.15 more per 1000 board feet on average, resulting in an average total U.S. cost impact of approximately $500,000 annually. There is a question of supply availability for endosulfan.

h. *Dog dips.* Lindane use in dog dips for treatment of mites is a high benefit use for which is no alternative. All other uses of lindane dog dips are low benefit uses.

2. *Moderate Benefit Uses*

Moderate benefit uses are those uses for which either alternatives are not available, but the impact of cancellation is minor, or alternatives are less effective or more expensive. Moderate benefit uses of lindane are as follows:

a. *Foral and foliage ornamentals.* There are no alternatives for certain uses, but cancellation would not cause severe impacts.

b. *Livestock dips.* There are several efficacious alternatives to lindane for control of livestock pests, with the exception of mites The economic impact of cancellation was estimated to be $1,803,400 annually, small relative to livestock industry revenues.

c. *Pineapples.* Lindane is used to treat about 9,700 acres or 72 percent of the total planted per year with pineapples in Hawaii. It is used in conjunction with soil fumigants to control symphylids. Total reliance on soil fumigants would result in an annual crop loss of 0.8 percent (5,150 tons) valued at $.515 million. Total economic impacts over the four-year production cycle in Hawaii were estimated at $1.018 million. For Puerto Rico, about 1,300 acres are planted annually and about 2,600 pounds of lindane are used annually. A total annual reduction in returns would amount to approximately $.375 million if lindane is unavailable for pineapple use in Puerto Rico.

3. *Low Benefit Uses*

Low benefit uses are those for which alternatives exist or cancellation of lindane would result in only minor impacts. Low benefit uses of lindane are:

a. *Cucurbits.* The impact of lindane cancellation for cucurbit growers was estimated to be $176,000 annually from increased costs due to adopting available alternative chemicals. No yield loss is expected.

b. *Pecans.* Lindane is used on pecans to control pecan phylloxera. The use of alternative pesticides was expected to result in grower level impacts of up to $1.5 million annually due to a combination of control costs and crop losses.

c. *Household products (including indoor smoke fumigation devices).* Effective, competitively priced alternatives to lindane products are available.

d. *Dog dips.* For treatment of pests other than mites, dog dips are a low benefit use since numerous alternatives are available in the same price range.

III. Initiation of Regulatory Action

A. Cancellation Actions

Based upon the determinations summarized above and discussed in detail in Position Documents 1, 2, 3, and 4, the Agency has determined that the risks resulting from the indoor use of smoke fumigation devices and from use of dog dips to control pests other than mites are greater than the social, economic, and environmental benefits from such uses. Therefore, the Agency is cancelling these uses, effective at the end of the 30 day period described in the statute.

Cancellation of the indoor smoke fumigation devices is based on the facts that the estimated lifetime cancer risk is about 10^{-4} for two applications per year, that the products are available to the general public, that there is no way of effectively limiting the number of applications or providing for suitable aeration after application, that there are numerous alternatives for the same spectrum of pests, and that there will not be a detectable economic impact to the user if these formulations are cancelled.

The Agency will limit the use of dog dips only to control mites and will cancel dog dips to control any other pests. This action is based on a determination that the benefits for uses other than treatment of mites were low because of the availability of alternatives and that risks were high when weighed against the benefits. The cancer risk is $4.2 \times 10^{-10^{-6}}$. Because of the potentially large cohort at risk, the Agency has determined that habitual treatment for pests other than mites would result in unacceptable cancer risks to the general public.

B. Actions Modifying Terms and Conditions of Registration

The Agency also has determined that the risks of all other registered uses of lindane are greater than the social, economic, and evironmental benefits of such uses, unless the terms and conditions of registration are modified. Briefly, these modifications involve (depending on the use) restriction of use to certified applicators, additional label precautions and use of protective clothing and equipment. The following use-by-use summary includes, for those uses which are not being cancelled, the modifications in terms and conditions that are necessary to maintain registrations or that must be met to obtain new registrations. Registrations will be cancelled and applications for registration will be denied unless registrants or applicants modify their labels in accordance with the terms and conditions set forth in this Notice.

1. *Commercial Ornamentals, Avocados, Pecans, Livestock, Forestry, Christmas Trees, Structural Treatment, Dog Shampoos, and Dog Dusts*

The Agency is requiring that all lindane products registered for the following uses be classified for restricted use: commercial ornamentals, avocados, pecans, livestock, forestry, Christmas trees, structural treatments, dog shampoos, and dog dusts. The labels must contain the following language:

Restricted Use Pesticide

For application only by or under the direct supervision of a certified applicator.

For all the above uses of lindane subject to the restricted use classification (except dog shampoos as noted below) the Agency is requiring that the labels be modified to contain the following language:

Applicators must wear the following protective clothing during the application process: a light-weight protective suit or coveralls; water-resistant hat; unlined, waterproof gloves; and unlined, lightweight boots. Mixers and loaders must also wear goggles or a face shield, waterproof gloves and a waterproof apron.

a. *Additional requirements for dog dust use.* In addition to the above requirements, labels for lindane products registered for dog dust use must contain the following label warning:

This product should be applied in a well-ventilated area.

b. *Additional requirements for structural treatment.* In addition to the above requirements, labels for lindane products registered for structural treatment use must contain the following label language:

Applicators working in enclosed areas, such as crawl spaces, must wear a respirator approved by OSHA (29 CFR 1910.134).

c. *Protective clothing requirements for dog shampoos.* Applicators of lindane dog shampoos must wear the following protective clothing during the application process: waterproof, elbow-length gloves; a water-proof apron; and unlined, waterproof boots.

2. *Homeowner Ornamentals*

For the use of lindane for homeowner ornamentals, the Agency is requiring that the labels be modified to contain the following language:

Applicators must wear the following protective clothing during the application process: long-sleeved shirt, long pants, waterproof gloves, full foot covering, and a head covering.

3. *Hardwood Logs and Lumber*

For the use of lindane for treatment of hardwood logs and lumber, the Agency is requiring that the labels be modified to contain the following language:

Applicators must wear the following protective clothing during the application process: lightweight protective suit or coveralls; unlined, waterproof gloves; and unlined, lightweight boots.

4. *Dog Dips*

For the use of lindane for dog dips, the Agency is requiring that the labels be modified to contain the following language:

Use of this product is permitted *only* for treatment of mites. The use of this product for treatment of other pests is prohibited. Applicators must wear the following protective clothing during the treatment process: elbow-length, waterproof gloves; a waterproof apron; and unlined, waterproof boots. Improper dilution of this product could cause serious injury to your pet. Children should not be allowed to handle or apply this product.

5. *Moth Sprays*

For the use of lindane for moth sprays, the Agency is requiring that the labels be modified to contain the following language:

Applicators must wear MSHA/OSHA-approved cartridge respirators when applying this product.

6. *Seed Treatment*

For the use of lindane for seed treatment applications, the Agency is requiring that the labels be modified to contain the following language:

Applicators who apply this product manually or without the use of a closed-system treatment procedure must wear the following protective clothing during the application process: long-sleeved shirt; long pants; gloves; and a disposable, paper dust mask which covers at least one-third of the face.

The labels must also carry the warning: This product should be applied in a well-ventilated area.

The Agency is not imposing a protective clothing requirement for automated or closed-system treatment procedures.

7. *Other Household Uses (Flea Collars, Shelf Paper and Household Sprays*

For the use of lindane in other household products (flea collars, shelf paper and household sprays), the Agency is requiring that the labels be modified to contain the following language:

Do not allow children to handle or apply this product.

Children and pets should not be allowed in treated areas until sprayed surfaces are dry.

8. *Label Modifications Applicable to All Lindane Products Subject to This Notice*

In addition to the label modifications specified above, the Agency is requiring that the labels for all lindane products be modified to meet current standards as specified in 40 CFR 162.10. Labels must describe proper handling and disposal, symptoms of poisoning, practical treatment in the event of poisoning, and other warning statements appropriate for the product's toxicity category.

Labels for applicable uses must contain the statement:

Aerial application of lindane is prohibited.

Finally, any lindane products registered for residential use (dog dips, household products) that contain more than 6.5 percent active ingredient must comply with EPA's child-resistant packaging regulations set forth in 40 CFR 162.16. See also **Federal Register** of March 31, 1981 (46 FR 15104).

9. *Applications for Registrations for Direct Application to Aquatic Environments*

All applications for registrations for direct application to aquatic environments will be denied.

10. *Disposal of Dips*

The following shall apply to all dip uses, except those intended for household use:

Used dip solutions must be disposed of in accordance with the Resource Conservation and Recovery Act (RCRA). If the applicator generates more than 1000 kg of used dip solution per month or more than 1000 kg used dip solution in combination with other hazardous waste, the material must be treated as a hazardous waste subject to subpart C of RCRA. Any user who wishes to treat, store or dispose of hazardous waste must obtain a permit to serve as a hazardous waste facility pursuant to RCRA.

C. Testing Requirements

The Agency has determined that there is an outstanding question as to whether lindane is a mutagen and that further mutagenicity testing is required. An informal agreement regarding mutagenicity testing has been reached between the Agency and the Centre International d'Etudes du Lindane (CIEL). The Agency will issue a notice pursuant to FIFRA section 3(c)(2)(B) to all registrants of lindane indicating that additional mutagenicity data are required. The Agency anticipates that the voluntary agreement with CIEL will satisfy the provisions of section 3(c)(2)(B) regarding joint data development. The tests which are being required include: (1) *in vitro* gene mutation testing inmammalian cells, (2) *in vivo* oral and parenteral assay for sister chromatid exchange, and (3) *in vitro* test in mammalian cells under anaerobic conditions. The requirement for these data will be independent of the Agency's RPAR determination as set forth in this Notice to modify the terms of registration.

IV. Comments of Scientific Advisory Panel and Secretary of Agriculture

A. comments of the scientific advisory panel

Pursuant to section 25(d) of FIFRA, notices of intent issued under section 6(b) are to be submitted to an advisory panel "for comment as to the impact [of the proposed action] on health and the environment."

The Agency transmitted the Position Document 2/3 to the Scientific Advisory Panel (SAP) in June, 1980, for review. On October 6, 1980, SAP responded to the Agency. The SAP's comments are reproduced below in their entirety.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Lindane

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing lindane under the provisions of section 6(b)(1) of FIFRA as amended. The review was completed in open meetings held in Arlington, Virginia, during the period July 24, 1980, and August 13–14, 1980. Maximum public participation was encouraged for the review. Public notices of the meetings were published in the **Federal Register** on July 3, 1980, and July 25, 1980. In addition, telephone calls and special mailings were sent to the general public who had previously expressed an interest in activities of the Panel. Written and oral statements were received from the technical staff of the Environmental Protection Agency, and from representatives of the Centre International d'Etudes de Lindane, the National Pest Control Association, the National Association of Wheat Growers, the Paper Products, Inc., North Dakota Crops Council, Oregon Wheat Growers League, Washington Wheat Commission, Rachel Carson Council, Inc., Idaho Wheat Commission, Athena Products Corporation, University of Idaho, and the North Dakota State Wheat Commission.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the Panel unanimously submits the following report:

Lindane, the gamma-isomer of hexachlorocy-clohexane, appears to be the least hazardous of the widely used organochlorine insecticides. Available data suggest than lindane is at worst a weak animal carcinogen, may have a low degree of fetotoxicity, may disrupt repoductive processes, and can produce central nervous system excitability after oral and dermal ingestion. The Panel agrees with EPA that lindane is substantially more toxic to young than adults in both humans and domestic animals and that chronic exposure can sometimes result in disastrous blood dyscrasias. However, for certain uses in insect pest control, e.g., scabies, bark beetles and powder post beetles, and seed treatment for wireworms, lindane has no available substitutes and these and certain very limited applications in agriculture and protection of ornamentals are both essential and well suited to Integrated Pest Management procedures. Furthermore, the total amounts of lindane used for these uses, e.g., <one million pounds annually, represent an minimal hazard to the environment. Therefore, the Panel has the following comments and recommendations:

1. Household used of lindane in treated shelf paper and floor waxes provide an unwarranted risk to the householder and should be cancelled immediately.

2. Pet uses for unrestricted use as flea collars, dog dusts, and dog shampoos should be cancelled immediately. Veterinary medical preparations of lindane for use in mange and scabies and for flea, louse and tick control should be available as collars, powders, sprays, shampoos, and dips under restricted classifications for use by licensed veterinarians only with label cautions and requirement for protective clothes, as proposed by EPA.

3. Ornamental applications for unrestricted use by the homeowner should be cancelled immediately. Ornamental uses restricted to commercial operators should be continued with full warning label cautions about the hazards of cancer, fetotoxicity, an central nervous system effects and a caution that women of child-bearing age and children must avoid exposure. Full protective clothing must be worn.

4. Lindane registrations for powder post beetle control should be continued under restricted classification for use by registered Pest Control Operators with full warning label cautions and full protective clothing proposed by EPA.

5. Livestock applications should be placed under restricted classification for use by certified applicators only with full warning label cautions and mandatory protective clothing as proposed by EPA.

6. Uses on pineapples should be retained with warning label cautions proposed by EPA.

7. Uses on cucurbits should be continued under restricted classification with full warning label and mandatory protective clothing proposed by EPA.

8. Uses on avocadoes should be continued under restrictive classification with full

warning label and mandatory protective clothing proposed by EPA.

9. Uses on pecans should be continued under restricted classification with full warning label and mandatory protective clothing proposed by EPA.

10. Uses on Christmas trees should be continued under restricted classification with full warning label and mandatory protective clothing proposed by EPA.

11. Uses in forestry for bark beetle control should be continued under restricted classification for application by certified operators with full warning labels and mandatory protective clothing as proposed by EPA.

12. Applications to hardwood logs and lumber should be continued under restricted classification with full warning labels and mandatory protective clothing as proposed by EPA. Special caution should be given to improving work place practices and disposal of treated sawdust and shavings.

13. Seed treatment uses of lindane should be continued under restricted classification by certified applicators with full warning labels and mandatory protective clothing proposed by EPA. Testimony presented to the Panel suggests that 90% of lindane seed treatments are made with closed mechanical systems that essentially eliminate operator exposure. EPA should sponsor an educational program to make use of such closed mechanical seed treatment systems universal.

14. The suspicion that lindane interferes with reproductive processes (hormones) indicates that a 3-generation reproductive study should be performed on an appropriate laboratory animal.

For the chairman:

Certified as an accurate Report of Findings:

H. Wade Fowler, Jr., Ph.D.,

Executive Secretary, FIFRA Scientific Advisory Panel.

Date: October 6, 1980.

B. Response to Comments of the SAP

The SAP made some general comments regarding the risks and benefits of lindane and included a list of specific recommendations for each use. In response to the general comments, the Agency's final position on the risks and benefits of lindane is basically consistent but differs in details with the SAP's position.

The SAP asserted that lindane is a weak oncogen, that it may have a low degree of fetotoxicity, that it may disrupt reproductive processes, and that it can produce central nervous system excitability. The Agency finds that there is positive evidence that lindane causes liver tumors in mice. Although the biological data base is inconclusive, the Agency has used the linearized multistage model for estimating possible risks to humans. In light of carcinogenic effects of lindane in mice and the carcinogenicity of a lindane metabolite in rats and mice, the Agency believes that lindane should be considered to have the potential for inducing carcinogenic effects in humans. However, as discussed in Unit II, the estimated risk levels have not been found to be unreasonable in most cases as long as certain use precautions and/or restrictions are observed.

Regarding reproductive and fetotoxic effects, the Agency has concluded that the presumption of reproduction effects has been rebutted because effects observed in certain studies could not be linked to treatment with lindane.

A NOEL has been established for fetotoxicity and maternal toxicity. The margins of safety for all uses are large enough not to prompt the Agency to cancel any uses because of fetotoxic effects.

Concerning central nervous system excitability and the possible effects of lindane, the Agency has concluded these effects still do not meet the RPAR criteria.

As discussed in Unit II, based on comments received, the Agency has reevaluated the benefits of lindane and found them to be greater than was thought at the time the PD 2/3 was developed. However, the Agency does not concur with SAP's assertion that "the total amounts of lindane for these user, e.g., more than one million pounds annually, represent a minimal hazard to the environment." the Agency believes that most of the uses of lindane present an unreasonable risk unless their use is made safer through use restrictions and lable modifications.

The SAP presented 14 specific recommendations, 13 of which recommended regulatory actions which should be adopted for specific uses. For many of the uses, the Agency's final position is the same as the SAP's. These uses and actions include: cancellation of household fumigation devices; cancellation of dog dips for pests other than mites; restriction of use on livestock, avodacos, pecans, Christmas trees, and forestry to certified applicators only; and requirement of label warnings for pineapples. On the other uses for which SAP either recommended cancellation or restricted use classification, the Agency has concluded that less stringent measures are adequate to prevent unreasonable adverse effects. Specifically, the Agency believes that shelf paper should not be cancelled; that pet uses should not be cancelled, but that dog shampoos and dusts should be restricted to veterinarians, while dog dips for control only of mites should continue to be available with label warnings and restrictions; that homeowner ornamantal applications, use on cucurbits, applications to hardwood logs and seed treatments need not be classified for restricted use but that protective clothing and other label precautions are required. (All registrations for lindane floor wax have been withdrawn).

SAP's final recommendation was that a three-generation reproductive study should be performed. The Agency points out that such a study is now available, has been reviewed and shows no reproductive effects.

C. Comments of the United States Department of Agriculture

As required by FIFRA section 6(b), the comments of USDA on the Position Document 2/3 are presented below in their entirety.

November 17, 1980.

Hon. Douglas M. Costle,

Administrator, U.S. Environmental Protection Agency, Washington, DC 20460.

Dear Mr. Costle: This is in response to the U.S. Environmental Protection Agency's Notice of Determination concluding the Rebuttable Presumption Against Registration of Pesticide Products Containing lindane.

We interacted with EPA in developing the biological, economic, and exposure information according to the current Memorandum of Understanding between our two agencies. Thus, we are pleased to be able to review and comment on this Notice and the accompanying position document.

The opening sentence on Page III–1 is incorrectly cited. The full title of the June 1978 report is "Preliminary Benefit Analysis of lindane prepared jointly by USDA and EPA." The basic biological and economic information contained in the June 1978 and the October 1979 report is the same. Both of these reports were compiled by the joint USDA/States/EPA lindane assessment team. Because of the opening statement on page III–1, our state cooperators have voiced concern that their joint efforts may not be utilized by EPA.

There are areas of agreement as well as issues of concern to us and to the cooperating States. Our comments on these specific items are contained in the enclosure which is an integral part of this response.

The additional time you granted for our review of this document was very beneficial and is appreciated. We are hopeful EPA will give favorable consideration to these suggestions.

Sincerely,

Bob Bergland,

Secretary, U.S. Department of Agriculture.

Enclosure—Secretary of Agriculture's Response Lindane Notice of Determination, PD 2/3

1. We believe that every effort should be made to maintain pest control strategies without causing unacceptable risks to users and the public. We concur with EPA's selection of regulatory options regarding the continued registered uses of lindane on livestock, pineapples, pet washes, and

commercial ornamentals with certain lable modifications, including "Restricted Use."

2. We concur in EPA's proposed regulatory options of cancellation where the risks appear to exceed the benefits. These include:

—Household use associated with shelf paper, waxes, sprays and smokes (fumigation devices), and the minor use associated with industrial moth sprays;

—Pet applications including collars, shampoos and dusts;

—Insect sprays—uninhabited buildings; and

—Empty storage bins—fog sprays. All of these uses involve continuous exposure for which there are adequate substitutes.

3. The precautionary statement, "Do not use lindane products on pregnant or young animals," may be desirable for veterinarians treating household pets. However, it may be impractical or impossible, in many cases, to make pregnancy determinations when livestock herds are being treated. We suggest that this statement be modified to be advisory rather than a label prohibition.

4. We share the EPA's concern for applicator exposure but would like clarification of the exposure calculations used since this was not explained in PD 2/3. Also, we recommend consistency in the selection of available protective clothing. The following label modifications on the use of protective clothing might be considered:

—Long sleeved shirts and pants.

—Impervious gloves (rubber or neoprene) and boots.

—Wide brimmed hats or roof type covers over spraying equipment when overhead spraying on agricultural and/or forestry sites.

—Approved respirators when handling dust formulations and when spraying in confined spaces.

—Impervious (rubber or neoprene) aprons in those areas where normal treatment practices could anticipate splashing of the treatment solutions and where aprons do not constitute a hazard around equipment.

5. *Livestock.*—As pointed out in the USDA/State/EPA benefit report, lindane is often used in combination with other pesticides, primarily toxaphene, to control pests on livestock. One of the more popular combinations is lindane (2%) and toxaphene (44%).This combination results in immediate control by lindane coupled with the longer residual activity provided by toxaphene. In developing the final regulatory action for lindane, the regulatory actions taken on toxaphene must also be considered.

We believe that if the lindane registrations for livestock are retained, but the registered uses of toxaphene are cancelled, the livestock industry would be unable to control certain pest problems.

6. *Hardwood Logs and Lumber.*—The decision to phase out this use over a 2 year period in the absence of effective registered alternatives seems inappropriate considering the extent of anticipated hazard. A July 28, 1980 letter from Southern Forest Experiment Station at Gulfport, Mississippi, to the Documents Control Office of the Chemical Information Division of EPA indicated the limited but critical amounts of lindane used in protecting wood from beetle attacks. As the assessment report notes, there are no chemical or nonchemical alternativies available for the registered uses of lindane on hardwood logs and lumber. Chlorpyrifos is not registered for use on felled hardwood logs and lumber and there are no assurances that it will be effective and that such registrations will be obtained. It is questionable as to whether 2 years is sufficient time for registrants to develop and have reviewed by EPA the volume of data needed for a new registration of this type. We therefore suggest that EPA give further consideration to the adoption of Option 2 (continued registration) with the appropriate label modifications to reduce exposure.

7. *Seed Treatment.*—We are concerned about the impact of the proposed cancellation of lindane as a seed treatment. The absence of an effective seed protectant results in insect injury to the seed with the resulting loss of plant stand, plant vigor, yield losses, and increased susceptibility to disease organisms. Some of these losses may necessitate the time and expense of replanting which results in yield losses due to the shortened growing season. EPA indicated that lindane seed treatments are applied as insurance treatments. Because of the pests involved, this is the only procedure that is practical and applies equally to the alternatives. Most crops are planted when soil temperatures are low. Lindane is effective and stable at these lower soil temperatures while the alternatives generally are not. There are no seed treatment alternatives for small grains, dry peas and beans, lentils, sorghum, sunflowers, sugar beets, and vegetables. In actual practice, the small grain producer that uses lindane seldom treats his own seed, but purchases it already treated. Lindane is registered and effective for the control of seed corn beetles, seed corn maggots, and wireworms. The possible alternatives to lindane on corn are diazinon and chlorpyrifos. Diazinon is not registered as a seed treatment for wireworms, and chlorpyrifos is only registered as a seed treatment for control of seed corn maggot. Therefore, without lindane, wireworm problems can be expected to increase to the extent that significant crop losses will occur. The alternatives can only be applied as a planter box treatment to corn.

Lindane, however, can be applied similarly, as a slurry treatment seed dealer or elevator, and in advance of planting by automatic seed treaters that meter the proper amount of material directly to seeds during the planting process.

These latter two options, which are essentially closed systems, should be considered as a means of reducing potential exposure, in lieu of cancellation.

8. *Avocados.*—We support the delayed "final decision" on this use until the Unviersity of Florida has had an opportunity to finalize its data on the avocado/mirid project. We believe that since this is truly a minor use, with no effective alternative controls available to producers, every consideration should be given to regulatory options to retain this registration.

9. *Ornamentals.*—As previously stated, we agree with the continued registration of lindane on ornamentals (including greenhouse and nursery plants) by commercial applicators.

Because continuous exposure is not involved and there are no satisfactory substitutes, we further recommend that registrations for lindane be retained for homeowner use on ornamentals with appropriate label modifications to reduce possible exposure. This use is only on an "as needed" basis and usually requires no more than one application every year or every few years. As pointed out in the PD 2/3, lindane is the only material registered for the control of all major borer species on woody ornamentals.

10. *Cucurbits.*—Lindane is registered for the control of a wide range of insects on cantaloupes, cucumbers, pumpkins, squash, and watermelons. This is not true for any of the alternative insecticides identified in PD 2/3. The USDA/State/EPA benefits report indicates that significant increased treatment costs can be expected from the cancellation of lindane for these uses. Most of the alternative insecticides may be more hazardous to the applicators, beneficial insects, and pollinators, and require more frequent applications. Therefore, we suggest the selection of Option 2 providing for the continued registered use on curcurbits.

11. *Minor Uses.*—There are minor use registrations not specifically addressed in either the USDA/State/EPA benefits report or in PD 2/3 that are important to regional or local areas and Puerto Rico. Of importance in the continental United States are preplant treatments labeled for the control of soil insects attacking celery, cucumbers, kale, lettuce, melons, pumpkins, spinach, and tomatoes. Of particular interest outside the continental U.S. are the control of the West Indian sugar cane root borer weevil and white grubs on sugar cane, symphylans and grubs in pineapples, cutworms and white grubs on vegetables, foliage applications for the control of scales, white flies and other foliage insects of mangos, lace bugs on ornamentals, registrations be retained with appropriate label modifications.

12. *Christmas Trees.*—The principal insects of concern on Christmas trees are the white pine weevil, the pales weevil, and the pine root weevil. The white pine weevil attacks new terminal growth, and this is the only area that requires treatment. Therefore, insecticidal applications can usually be made with compressed air, handgun, or backpack equipment which deliver coarse droplets. The only registered alternative for this use, oxydemeton-methyl (Metasystox-R), costs up to two times that of lindane. This insecticide is more toxic than lindane, especially from a dermal exposure aspect. The pales weevil and pine root collar weevil are attracted to recently cut pine stumps where they begin their life cycle in the roots of cut stumps. The most appropriate control for these insects is to make insecticidal applications to the cut stumps and adjacent soil. These treatments are normally applied with commercially available boom type sprayers, all of which deliver coarse sprays. In the case of the pales weevil, control must be obtained to prevent reinfestation for the remaining standing trees. Foliar sprays are seldom used for the control of this weevil if cut stumps are treated.

Silvicultural or nonchemical controls including basal pruning, duff removal, stump or slash removal, or two year land fallow have been advocated but are not economically feasible and also increase the possibility of soil erosion. Losses to pines when only nonchemical controls are utilized have been calculated to range from $644 to $1,020 per acre. The lower figure considers only equipment and labor costs, the higher figure also includes yield losses (Scotch pines, Michigan).

In Pennsylvania, lindane is an essential part of their Christmas tree integrated pest management program. Due to the nature of the pests involved and the effectiveness of lindane for their control, we suggest that Option 2 be selected. Regulatory options, such as protective clothing and equipment modifications, should be considered as alternatives to cancellation.

13. *Pecans.*—The presently available chemical alternatives for pecan phylloxera control, identified in PD 2/3, include oil or malathion. These chemicals are not as effective as lindane; and for six of the major pecan producing States, the use of these products as replacements for lindane would increase control costs by $631,000. For Georgia alone, control costs were estimated to increase $286,000. In these same six States, yield losses were estimated at $742,000. We also question the advisability of substituting endosulfan for this use because of its greater relative toxicity. Lindane is applied once per year so exposure is minimal. Further, there are no nonchemical control alternatives. Until other effective environmentally acceptable control measures are assured for those States having this problem pest, the availability of lindane is essential and should be retained.

14. *Forestry.*—Although lindane is not widely used in forestry, there are a number of locations where its use is critical to continued timber production. PD 2/3 is in error when it states that "a variety of chemical alternatives are presently registered" for forestry uses. For the mountain pine beetle, *Dendroctonus ponderosae* Hopkins, a major forest insect pest in many western areas, only three pesticides are registered: lindane, ethylene dibromide (EDB), and cacodylic acid. Both EDB and cacodylic acid are currently under Rebuttable Presumption Against Registration (RPAR) review and it appears likely that the forestry uses of EDB will be cancelled. Problems associated with the critical timing and method of application of cacodylic acid makes use of that chemical almost nonexistent. Further, the use of trap trees is not possible in very many situations, primarily because of the need to treat so many trees within a very limited amount of time. Ips spp. and the spruce beetle, *Dendroctonus-rufipennis* (Kirby), are two other important bark beetles in the West for which lindane and EDB are the only chemicals reasonably useful for direct control. We do not believe chlorpyrifos, dicrotophos, and endosulfan can be considered alternatives to lindane. Forest Service research indicates that chlorpyrifos is ineffective against the mountain pine beetle. Dicrotophos and chlorpyrifos do not control the spectrum of insects that are controlled with lindane and are more expensive. Dicrotophos and endosulfan are acutely toxic and present a real hazard to applicators far greater than lindane. In addition, endosulfan is limited to use on logs. Along the Colorado Front Range and in South Dakota, areas where private landowners treat bark beetle infested trees with lindane. This is not a typical forestry application, but the chemical is used in a forest environment and cannot be considered an ornamental use. Although the Forest Service does not have data on the amount of lindane being applied this way, based on the number of citizen inquiries received, we are sure that a substantial amount of lindane is being used. Lindane is the only chemical available to homeowners for the treatment of bark beetles, because the formulators of the EDB-registered products only sell to State or Federal agencies.

To reduce losses from bark beetles on an area-wide basis, a combination of methods is used. Various tools are necessary for satisfactory production of forest products at economical prices. Where insect infested timber is accessible and economically valuable, salvage logging is used to reduce the insect population and, at the same time, recover some value. Silvicultural practices are utilized to provide long-term protection from bark beetle epidemics. High value trees in recreation areas and around homes are sprayed to prevent attack. Nonchemical and silvicultural controls are useful, but not applicable to all areas and situations. Direct control using lindane or EDB is used on infested trees where the other methods are not practical due to terrain, timber value, or other factors. If lindane is cancelled, one important tool of this integrated approach is lost. However, we agree that one of the major impacts of cancellation will be to the small private landowners in the South. Salvage logging of beetle invested and uninfested green buffer trees is the only effective suppression technique that can be used during severe infestations. The cut-and-leave without chemical treatment alternative is the one most widely used when salvage is not practical. This method is only effective during the hot summer months when the beetles are most active. Heat is needed to drive the beetles out of the infested logs before they have fully developed, thus stopping the spread of the infestation. However, the best time to control the beetles is when they are in the trees during the colder winter months. This is when the cut-and-spray (lindane) treatment must be used.

One of the questions of concern about this product is the possible adverse effect on human health when used inside the home. The Wood Preservative Assessment Team has recommended that PCP not be used in the home, and some labels already carry this statement. Because the hazards of PCP preclude its use inside dwellings, it cannot be considered an alternative to lindane. Lindane is effective for the control of the wood boring insect complexes, dry wood termites, and there are no other safe effective alternative control measures. We suggest the adoption of Option 2 (continued registration). Label modifications are suggested in lieu of cancellation.

D. Response to Comments of the USDA

The Agency's final regulatory position is similar to that recommended by the Secretary of Agriculture. While USDA concurred with the proposal to cancel household uses, pet applications, insect sprays in uninhabited buildings and empty storage bins, the Agency has concluded that only the indoor fumigation devices and dog dips for treatment of pests other than mites must be cancelled. The Agency and USDA are in agreement that most other uses should be retained with label modifications and, in some cases, classification for restricted use by certified applicators. In response to USDA's request for clarification of the exposure calculations, such calculations have been included in the appendix to the PD 4. USDA has suggested that consistency be established for the protective clothing requirements. Accordingly, these requirements have been standardized so that the same types of protective clothing are required for most uses.

V. Procedural Matters

This Notice announces the Administrator's intent to cancel the registration of products containing lindane for the indoor smoke fumigation use, to cancel dog dips for treatment of pests other than mites, and to cancel registrations and deny applications for registrations for lindane products for the remaining uses unless the registrants and applicants modify the terms and conditions of registration to comply with the requirements of this Notice. As provided in FIFRA sections 6(b) and 3(c)(6), the cancellations and denials proposed in this Notice shall become final and effective at the end of 30 days from receipt by the registrant or applicant, or publication of this Notice whichever occurs later, unless within that time either (i) the registrant or applicant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the Notice. The 30 day time period in which to request a hearing is applicable to all the regulatory actions proposed in this Notice. This unit of the Notice explains how registrants may seek to make any necessary corrections to modify the terms and conditions of registration and how registrants and other adversely affected parties may request a hearing on the actions set forth in this Notice.

A. Procedures for Amending the Terms and Conditions of Registration

To make the changes required to avoid cancellation, registrants, within 30

days of receipt of this Notice, must submit amended label(s) and application(s) for amended registrations(s) making the necessary corrections. Five copies of the amended labeling and an application for amended registration(s) must be submitted to:

George LaRocca, Product Manager 15, Registration Division (TS-767c), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Office location and telephone number: Room 204, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-2400.

Registrants should not submit label amendments at this time to bring labels into conformance with the general standards of 40 CFR 162.10. The Agency will review amended labels for the necessary corrections to prevent cancellation, and then will notify registrants on a case-by-case basis if further amendments are necessary to comply with 40 CFR 162.10.

B. Procedure for Requesting a Hearing

Registrants and applicants for registration adversely affected by the actions described above may request a hearing on such actions within 30 days of receipt of this Notice, or within 30 days of publication of this Notice in the **Federal Register**, whichever occurs later. Any other person adversely affected by the actions described above, or any interested person with the concurrence of an applicant whose application for registration has been denied, may request a hearing within 30 days of publication of this Notice in the **Federal Register.**

All registrants, applicants, and other adversely affected parties who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that (1) all requests must identify the specific registration(s) by registration number(s) and the specific use(s) for which a hearing is requested, (2) all requests must be accompained by objections that are specific for each use of the identified pesticide product for which a hearing is requested, and (3) all requests must be received by the Hearing Clerk within the applicable 30 day period. Failure to comply with these requirements will result in denial of the request for a hearing.

Request for a hearing must be submitted to:

Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

C. Consequence of Filing or Failing to File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice Governing Hearings under FIFRA section 6 (40 CFR Part 164). The hearing will be limited to those uses and registrations (or applications) for which a hearing has been requested. In the event of a hearing, each cancellation and denial action subject to the hearing will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing.

2. *Consequences of failure to file in a timely and effective manner.* If a hearing concerning the cancellation or denial of registration of a specific use of a specific pesticide product containing lindane has not been requested by the end of the applicable 30 day period, registration of that lindane product will be cancelled, or the application for registration denied, unless the registrant or applicant amends the terms and conditions of his registration as described in this Notice.

A registrant may contest the cancellation of his registration for some uses of a product, while modifying the terms and conditions of the registration of the same product to bring it into compliance with the requirements of this Notice. In order to do so, he must (1) make a timely request for a hearing challenging the cancellation of the product for the uses which he wishes to contest, and (2) make a timely application for amendment to modify the terms and conditions of the registration for uses permitted under this Notice which he wishes to retain.

D. Intrastate Products

The Agency is aware of a number of pesticide products containing lindane which are not federally registered and which are being marketed under the authority of 40 CFR 162.17. All persons producing or distributing such products must submit an application for federal registration, including all required supporting data as prescribed by the provisions of section 3 of FIFRA and of 40 CFR Part 162 within 30 days of receipt of this Notice or publication in the **Federal Register** whichever is later. The Agency further notifies all such applicants that only products which conform with the requirements of this Notice will be registered. Any person who wishes to register a product which would not conform with the requirements of this Notice is informed that the Notice is a denial of his application, and if he wishes to contest the denial, he must request a hearing within the applicable 30 day period provided by this Notice.

The 30 day period in which to request a hearing applies to all regulatory actions proposed in this Notice, including all denials of registration, all cancellations, and all registrations which must be amended to implement changes in the terms and conditions of use in order to avoid cancellation.

Dated: September 30, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-28154 Filed 10-18-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/7E; PH-FRL 2451-2]

Intent to Cancel Registrations of Pesticide Products Containing Strychnine; Denial of Applications for Registration of Pesticide Products Containing Strychnine; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of determination; notice of availability of position document.

SUMMARY: Strychnine is registered as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act. In December of 1976, EPA initiated an RPAR process to consider whether strychnine pesticide registrations should be cancelled, modified, or continued unchanged. This Notice concludes that RPAR process and announces the Administrator's intent to cancel registrations and deny applications for certain uses of strychnine, to continue the registration of other uses of strychnine only if the label is modified, and to require efficacy data to determine lowest toxic dosage for ground squirrels.

DATE: Requests by a registrant or applicant for a hearing must be received on or before November 18, 1983 or (for registrants) within 30 days from receipt by mail of this Notice whichever occurs later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Bruce Kapner, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection

Agency, 401 M St. SW., Washington, D.C. 20460.
Office location and telephone number: Room 711, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7400).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered in compliance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), sections 3(a) and 12(a)(1). A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment" [FIFRA section 3(c)(5)], that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide, (FIFRA, section 2(bb)). Thus, to support application for initial registration and to maintain a registration, the benefits of a pesticide product must exceed the risks of use when the pesticide is used in accordance with commonly recognized practices and in compliance with the terms and conditions of registrations. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect.

Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or modify the terms and conditions of registration whenever it is determined that the pesticide causes unreasonable adverse effects on the environment. The Agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide an informal procedure through which to gather and evaluate information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11.

A rebuttable presumption arises if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces an RPAR by issuing a notice of determination for publication in the **Federal Register** and by issuing a Position Document (PD 1), detailing the Agency's position and concerns. Registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment or submit evidence concerning the economic, social, and environmental benefits of the use of the pesticide.

The RPAR process is concluded with a "notice of determination." In that notice, the Agency states and explains its decision whether the presumption of risk has been rebutted. If all presumptions of risk are successfully rebutted, the RPAR is concluded and no regulatory action is commenced. If the Agency determines that any presumption of risk is not rebutted, the notice of determination evaluates all information available to the Agency concerning the social, economic, and environmental costs and benefits of continued use of the pesticide for each individual use pattern. In determining whether the use of a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risk, and the impacts of such modifications on the benefits of the use. The notice of determination is typically developed through a two-step process; the Position Document 2/3 (PD 2/3) presents the Agency's preliminary determinations and solicits comments and further information, and the Position Document 4 (PD 4) presents the final notice of determination.

The final notice of determination may include a notice of intent to cancel the registration of currently registered pesticide products and to deny applications for the registration of new products. It may also set out conditions which, if fulfilled by the registrant, would be adequate to bring the registration into compliance with the statutory requirements and thus avoid cancellation or denial of registration. The final notice may also require that the registration of the pesticide be reclassifed from general to restricted use pursuant to FIFRA section 3(c)(7). In the event of cancellation, denial or reclassification of a pesticide product's registration, any person adversely affected by the action may request an administrative hearing to challenge the proposed action pursuant to FIFRA section 6(b)9 and (d).

B. Organization of this Notice

Unit I of this Notice provides background and a general summary of the Agency's actions regarding strychnine. Unit II of this Notice provides a summary of the risk and benefits of the pesticidal uses of strychnine. Unit III presents the Agency's regulatory decision. Unit IV sets out the comments submitted to the Agency by the Secretary of Agriculture and former members of the Scientific Advisory Panel. Unit V of this Notice sets out the procedures by which a registrant or other person adversely affected by this Notice may request a hearing to challenge the actions proposed in this Notice. Unit V also sets out the procedures which registrants should follow in seeking amendments of their registrations to conform to the requirements of this Notice in order to continue their registrations for those uses of strychnine retained under this Notice.

C. Background

The Agency issued a Notice of Rebuttable Presumption Against Registration for strychnine in the **Federal Register** of January 13, 1977 (42 FR 2713). The presumption was against strychnine registrations for all outdoor, above-ground uses based on data indicating that those uses of strychnine meet or exceed two RPAR risk criteria: (1) Acute toxicity to mammals and birds and (2) significant reductions in nontarget species and fatality to members of endangered species. The Agency invited public comment relevant to these risks and benefits of strychnine use. After evaluation of these comments, in PD 2/3 the Agency proposed to cancel certain uses and modify terms and conditions of registration to protect organisms and endangered species as published in the **Federal Register** of November 5, 1980 (45 FR 73602). Pursuant to section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, the Agency submitted its proposed decision for review and comment to the Scientific Advisory Panel (SAP) and the Secretary of Agriculture. In addition, the Agency received further public comment on it proposed decision. The PD 4 presents the Agency's final decision regarding strychnine registrations.

D. Content of this Notice

This Notice announces the Agency's intent to cancel some strychnine registrations and to continue other registrations only if the terms and conditions of registration are modified, to require additional data on strychnine uses pursuant to section 3(c)(2)(B) of FIFRA, to request that registrants with strychnine registrations for intrastate pesticide products to submit applications for Federal registration

pursuant to 40 CFR 162.17, and to provide notice of the availability of the PD 4 concluding the RPAR for strychnine. The strychnine PD 4 summarizes Agency action concerning strychnine and sets forth the rationale for its final decision. A summary of the Agency's final decision follows; details of the decision are set forth in Unit III of this Notice.

E. Summary of the Final Decision on Strychnine

For each outdoor, above-ground use of strychnine the Agency has decided to take the following regulatory action:

1. *Rangeland, pasture and cropland uses.*

a. Prairie dogs—cancellation.

b. Ground squirrels—require additional data and modification of terms and conditions of registration.

c. Deer mice—cancellation.

d. Meadow mice—cancellation.

e. Chipmunks—cancellation.

f. Marmots/woodchucks—cancellation.

g. Cotton rats—require modification of terms and conditions of registration.

h. Kangaroo rats—require modification of terms and conditions of registration.

i. Jackrabbits—require modification of terms and conditions of registration.

a. Prairie dogs—cancellation.

b. Ground squirrels—require additional data and modification of terms and conditions of registration.

c. Deer mice—cancellation.

d. Meadow mice—cancellation.

e. Chipmunks—cancellation.

f. Mountain beavers—cancellation.

g. Opossums—cancellation.

h. Rabbits—cancellation.

i. Marmot/woodchuck—require modification of terms and conditions of registration.

j. Jackrabbits—cancellation of all uses except around airports.

k. Porcupine—require modification of terms and conditions of registration.

l. Kangaroo rats—cancellation.

m. Cotton rats—cancellation.

3. *Birds and cropland.*

a. Blackbirds—require modification of terms and conditions of registration.

b. Cowbirds—require modification of terms and conditions of registration.

c. Horned larks—require modification of terms and conditions of registration.

d. Crowned sparrows—require modification of terms and conditions of registration.

e. House finch (linnets)—require modification of terms and conditions of registration.

f. Meadowlarks—require modification of terms and conditions of registration.

4. *Birds on nonagricultural sites.*

a. Pigeons—require modification of terms and conditions of registration.

b. Sparrows—require modification of terms and conditions of registration.

II. Summary of Risks and Benefits of the Pesticidal Uses of Strychnine

In reaching its final decision regarding strychnine registrations, the Agency has reviewed and evaluated information on the potential human health risks, adverse environmental effects and the economic, social, and environmental benefits associated with the pesticidal uses of strychnine. The detailed assessment of risks and benefits and the conclusions regarding pesticidal uses of strychnine are contained in the PD 4. This unit summarizes those determinations.

A. Determinations of Risk

All of the outdoor, above-ground pesticidal uses of strychnine were examined by the Agency because of their potential for killing nontarget species, including members of endangered species, either by direct or indirect poisoning. After reviewing and evaluating all the existing data and public comments, the Agency determined that all outdoor, above-ground pesticidal uses of strychnine pose some risk to nontarget species. Although the data base is small, it indicates that species other than the target species may feed on baits treated with strychnine and that scavenging may occur on animal carcasses killed by strychnine poisoning. In some instances, nontarget species mortality may result. Obviously, this occurrence is especially critical should the nontarget animal be a member of an endangered species. The Agency is aware of data which indicate that nontarget poisoning is generally likely when strychnine baits are distributed extensively in the environment. Although the Agency is unable at this time to assess the risks to nontarget species in a quantitative manner, the existence of environmental risk due to outdoor, above-ground uses of strychnine pesticides are qualitatively established.

B. Determinations of Benefits

The Agency faced severe data limitations in its analysis of the potential economic consequences of cancelling the outdoor, above-ground uses of strychnine. Due to a lack of sufficient usage or comparative efficacy data, it was often necessary to predict economic impact solely in qualitative economic evaluations; thus, they represent rough predictions of strychnine bait distribution and economic impact.

In general, the economic impacts of cancelling strychnine registrations for outdoor, above-ground uses would not significantly affect U.S. production or prices of major commodities or services. Impacts on agricultural productivity and production costs would generally impact users in Western States where the bulk of strychnine usage occurs. Regional or local economic impacts to users were indicated where no registered alternatives exist or where registered alternatives are more costly, impractical, or ineffective.

Strychnine uses analyzed in the RPAR process were grouped into five categories: (1) Rodents and lagomorphs in rangeland and pasture, (2) rodents and lagomorphs in croplands, (3) rodents and lagomorphs in nonagricultural sites, (4) birds in croplands and (5) birds in nonagricultural sites.

1. *Rodents and lagomorphs in rangeland and pasture.* Approximately 45.6 percent (227,400 pounds) of the total strychnine above-ground use (498,700 pounds) were used on rodents and lagomorphs in rangeland and pasture.

a. *Prairie dogs.* Approximately 88,000 pounds of strychnine baits were used (approximately 38.7 percent of the total use in this category) to treat an estimated 110,275 acres of range and pasture for prairie dog control.

When strychnine registrations are cancelled for this use, zinc phosphide will be the probable alternative. The efficacy of both zinc phosphide and strychnine depends on many factors and is, therefore, highly variable (between 30–100 percent control reported). Prebaiting is necessary when using zinc phosphide; although strychnine effectiveness is increased by prebaiting, it is not requisite. The Agency concluded in the PD 2/3 that the efficacy of zinc phosphide and strychnine used under normal conditions is similar. Comments submitted to the Agency in response to the PD 2/3 indicated that treatment costs with zinc phosphide could be approximately $0.45 to $3.70 per acre more expensive than treatment costs with strychnine if there is no prebaiting used with strychnine. Assuming that this higher cost would apply to the entire 110,275 acres estimated to have been treated with strychnine (1977–78 year basis), the total treatment cost of zinc phosphide would exceed that of strychnine by $408,000. Furthermore, some commenters maintained that additional treatments were necessary when using zinc phosphide. Assuming that three additional zinc phosphide treatments followed by the use of gas cartridges were necessary on all acreage

formerly treated with strychnine, there would be an additional increased treatment cost of $672,000 with zinc phosphide. Therefore, making worst case assumptions for zinc phosphide treatment, there would be slightly more than a $1 million cost increase associated with zinc phosphide prairie dog control ($408,000 + $672,000 = $1,080,700). There is little data to support these assumptions, however, and it is highly unlikely that the entire acreage currently treated with strychnine would receive three annual zinc phosphide treatments preceded by prebaiting and followed up by gas cartridges.

b. *Ground squirrels.* If the Administrator had decided that strychnine registrations were to be cancelled to control ground squirrels, the only currently registered pesticide alternatives in all States would then have been carbon disulfide, gas cartridges, and carbon tetrachloride; 1080 is registered only in three States. The Agency estimated that if strychnine were cancelled and if 1080 were available in three States, the annual increased cost of control of ground squirrels would be approximately $900,000. The Agency concludes that this increased cost would have been absorbed by users or publicly supported rodent control programs. Therefore, cancellation of strychnine registrations for control of ground squirrels would affect users directly but have no appreciable impact on livestock markets or consumer meat prices.

c. *Other rodents and lagomorphs.* No estimates of economic impact of cancellation of strychnine registrations for these uses was made due to a lack of data. The Agency concludes that there would be little or no national economic impact, however, when strychnine registrations are cancelled for some of these uses because these uses combined account for less than 1 percent of the total above-ground, rangeland/pasture use.

2. *Rodents and lagomorphs on croplands.* Approximately 42.1 percent (209,900 pounds) of the total strychnine above-ground use (498,700 pounds) is used on rodents and lagomorphs on croplands.

a. *Prairie dogs.* Approximately 7 percent of the above-ground, cropland strychnine use is for control of prairie dogs. When strychnine registrations are cancelled for this use, the only registered pesticide alternative will be gas cartridges which will increase application cost approximately $14 to $19 per acre. If all the cropland acreage currently treated with strychnine for prairie dog control were to be treated with gas cartridges, the Agency estimates an approximate increased application cost of between $206,300 to $270,900. The Agency expects that this increased cost would have little or no national economic impact.

b. *Ground squirrels.* Approximately 91 percent of the above-ground, cropland strychnine use is for control of ground squirrels. If strychnine registrations had been cancelled for this use, the most likely registered pesticide alternatives would be diphacinone, 1080, zinc phosphide, and carbon disulfide. The Agency estimated that if strychnine registrations for this use had been cancelled, application costs could increase approximately $1.4 million annually. This increased cost would be too small to have a macro-economic impact.

c. *Other rodents and lagomorphs.* No estimates of the economic impact of cancellation of strychnine registrations for these uses were made due to lack of data. The Agency concludes that there will be little or no national economic impact, however, when strychnine registrations are cancelled for some of these uses because uses combined account for approximately only 2 percent of the total above-ground cropland use.

3. *Rodents and lagomorphs on nonagricultural sites.* For the purposes of the Agency's economic analysis, nonagricultural sites were defined as areas not involved in the direct production of crops of livestock. Use of strychnine in this category comprises 11,900 pounds, or approximately 2.4 percent, of the total outdoor, above-ground strychnine use (498,700 pounds), most of which is devoted to ground squirrel treatments on embankments and turf areas and control of porcupines in forested areas. The Agency had few data in this category upon which to assess the ecomonic impact of cancellation of strychnine registrations. The Agency anticipated that there might be an increase in the number of ditch bank, levee and canal washout if strychnine registrations were cancelled. Because of the low volume of strychnine use in this category, the Agency concludes that there will be little or no national economic impact due to cancellation of some of the strychnine registrations for these uses.

4. *Birds in cropland.* There are no strychnine pesticides registered federally to control birds on cropland. California has State strychnine registrations to control a variety of bird species and Nevada and Wyoming have strychnine registrations to control magpies. The Agency's economic analysis was limited to California since there were not sufficient data for the other two States.

Use of strychnine in this category (18,000 pounds) in California accounts for approximately 3.8 percent of the total, outdoor, above-ground strychnine use (498,700 pounds).

No Alternative, toxicant pesticides are registered to control birds on cropland. If strychnine registrations had been cancelled for these uses, repellents, mechanical and electronic devices, trapping, shooting, and habitat manipulation would most likely have been used.

5. *Birds on nonagricultural sites.* For purposes of the Agency's economic analysis, nonagricultural sites were defined as areas not involved in the direct production of crops or livestock.

Use of strychnine in this category (31,500 pounds) accounts for approximately 6.3 percent of the total, above-ground, outdoor strychnine annually used (498,700 pounds).

Strychnine pesticides are registered to control pigeons and house sparrows on structures, vacant lots and roosting places. A variety of alternatives are federally registered, including repellents, frightening agents, and chemosterilants. In addition, a number of mechanical devices are available. The Agency estimates that there would be no economic impact if strychnine registrations to control pigeons and house sparrows had been canceled, but society would lose a quick-acting tool when public health is potentially affected due to pigeon and house sparrow populations.

III. Initiation of Regulatory Action

Based upon the determinations summarized above and those discussed in detail in Position Documents 2, 3, and 4, the Agency has determined to cancel strychnine registrations and deny applications for certain uses and to cancel strychnine registrations and deny applications for other uses, unless the terms and conditions of registration are modified as required. In addition, for some uses, the Agnecy will require additional data pursuant to section 3(c)(2)(B) of FIFRA.

A. Cancellation

The Agency has determined that the risks outweigh the benefits associated with the following outdoor, above-ground strychnine uses: to control prairie dogs on rangeland, pasture, cropland, and nonagricultural sites; to control deer mice, meadow mice, and chipmunks on rangeland, pasture, cropland and nonagricultural sites; to control marmots/woodchucks on

rangeland, pasture, and cropland; to control mountain beavers on nonagricultural sites; to control rabbits on nonagricultural sites; to control cotton rats and kangaroo rats on nonagricultural sites; to control opossums on nonagricultural sites; and to control jackrabbits on nonagricultural sites except around airports.

1. *Prairie dogs.* Registrations will be canceled effective as of the end of the statutory prescribed 30-day period and applications for registrations will be denied for strychnine-containing products used to control prairie dogs on rangeland, pasture, cropland, and nonagricultural sites.

The Agency has determined that the risk to nontarget species, especially to the endangered black-footed ferret, outweighs the benefits of strychnine used to control prairie dogs on all sites. Zinc phosphide is an effective altenative to strychnine for use on rangeland and cancellation of strychnine registrations for use on cropland and nonagricultural sites would have an insignificant impact on the national economy.

2. *Other rodents and lagomorphs.* Registrations will be canceled effective as of the end of the statutory prescribed 30-day period and applications will be denied for strychnine-containing products used to control deer mice, meadow mice, and chipmunks on rangeland, pasture, cropland, and nonagricultural sites; to control marmots/woodchucks on rangeland, cropland and pasture; and to control cotton rats, kangaroo rats, mountain beavers, opossums, rabbits, and jackrabbits (except around airports) on nonagricultural sites. These uses are so minor that cancellation of strychnine registrations for them would have little or no impact on the national economy.

B. Conditional Cancellation

Registrations will be canceled and applications for registration will be denied for strychnine-containing products used to control ground squirrels on rangeland, pasture, cropland, and nonagricultural sites; to control cotton rats and kangaroo rats on rangeland, pasture, and cropland; to control marmots/woodchucks and porcupines on nonagricultural sites; to control blackbirds, cowbirds, horned larks, crowned sparrows, linnets, and meadow larks on cropland; and to control pigeons and house sparrows on nonagricultural sites unless registrants or applicants modify the terms and conditions of registration as described below:

1. *Ground squirrels on rangeland, pasture, cropland and nonagricultural sites.* Although the Agency estimated that cancellation of strychnine registrations to control ground squirrels on all sites would have little or no impact on the national economy, the Agency has determined that the risk to nontarget species, including endangered species, would be sufficiently lessened by the following modifications in the terms and conditions of registrations to make cancellation unnecessary. Therefore, the Agency has determined that the following label statements are required to avoid cancellation of registrations and denial of applications:

Do not expose baits in a manner which presents a likely hazard to pets, poultry or livestock.

Do not place bait in piles.

Pick up and burn or bury all visible carcasses of animals in or near treated areas.

Do not use for ground squirrel control in areas occupied by the Utah prairie dog in Garfield, Iron, Kane, Piute, Sevier and Wayne Counties, Utah.

Do not use for ground squirrel control within 200 yards of prairie dog colonies.

Do not use within one mile of a prairie dog colony where the presence of a black-footed ferret is confirmed within a five-year period.

The killing of an endangered species during strychnine baiting operations may result in a fine under the Endangered Species Act. Before baiting, the user is advised to contact the regional U.S. Fish and Wildlife Service (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species. Strychnine baits should not be used in the geographic ranges of the following species except under programs and procedures approved by the USEPA: California Condor, San Joaquin Kit Fox, Aleutian Canada Goose, Morro Bay Kangaroo Rat, Gray Wolf, and Grizzly Bear.

All registrations for products containing strychnine which are not dyed in accordance with the recommendations established by the State of California in the Vertebrate Pest Control Handbook are cancelled. In addition, to avoid cancellation of registrations and denial of applications, all registrants must amend their confidential statement of formula to include that all strychnine baits are dyed in accordance with the recommendations in the Vertebrate Pest Control Handbook.

To protect the endangered species, California Condor, San Joaquin Kit Fox, Aleutian Canada Goose, and the Morro Bay Kangaroo Rat, the Agency will rely on the guidelines and agreements among the responsible California agencies as long as the California Department of Food and Agriculture (CDFA) submits within 30 days of this Notice's publication all such agreements and guidelines to the Agency for review and approval. In addition, any subsequent changes to these agreements and guidelines must be reviewed and approved by the Agency before they can become effective. Failure to satisfy this requirement will result in the cancellation of registrations and denial of applications for this use.

2. *Other rodents and lagomorphs on rangeland, pastures, and cropland.* The Agency has determined that to avoid cancellation of registrations and denial of applications, the following label statements are required for the control of cotton rats, kangaroo rats and jackrabbits:

Do not expose baits in a manner which presents a likely hazard to pets, poultry or livestock.

Do not place bait in piles (for cotton and kangaroo rats).

for jackrabbit control place the baits in piles.

Pick up and burn or bury all visible carcasses of animals found in or near treated areas.

Do not use for cotton rat control in areas occupied by the Mississippi sandhill crane in Jackson County, Mississippi.

Do not use for cotton rat control in areas occupied by the Cape Sable sparrow in Collier, Dade and Monroe Counties, Florida.

Do not use for kangaroo rat or jackrabbit control in areas occupied by the masked bobwhite quail in Pima and Santa Cruz Counties, Arizona.

Do not use for kangaroo rat or jackrabbit control in areas occupied by the Utah prairie dog in Garfield, Iron, Kane, Piute, Sevier, and Wayne Counties, Utah.

Do not use for jackrabbit or cotton rat control in areas occupied by Attwater's greater prairie chicken in the following Texas counties: Aransas, Austin, Brazoria, Colorado, Fort Bend, Galveston, Goliad, Refugio, and Victoria.

The killing of an endangered species during strychnine baiting operations may result in a fine under the Endangered Species Act. Before baiting, the user is advised to contact the Regional U.S. Fish and Wildlife Service (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species. Strychnine baits should not be used in the geographic ranges of the following species except under programs and procedures approved by the USEPA: California Condor, San Joaquin Kit Fox, Aleutian Canada Goose, Morro Bay Kangaroo Rat, Gray Wolf, and Grizzly Bear.

All registrations for products containing strychnine which are not dyed in accordance with the recommendations established by the State of California in the Vertebrate Pest Control Handbook are cancelled. In addition, to avoid cancellation of registrations and denial of applications, all registrants must amend their confidential statement of formula to include that all strychnine baits are dyed in accordance with the recommendations in the Vertebrate Pest Control Handbook.

To protect the endangered speices, California Condor, San Joaquin Kit Fox, Aleutian Canada Goose, and the Morro Bay Kangaroo Rat, the Agency will rely on the guidelines and agreements among the responsible California agencies as long as the California Department of Food and Agriculture submits within 30 days of this Notice's publication all such agreements and guidelines to the Agency for review and approval. In addition, any subsequent changes to these agreements and guidelines must be reviewed and approved by the Agency before they can become effective. Failure to satisfy this requirement will result in the cancellation of registrations and denial of applications for this use.

3. *Other rodents and lagomorphs on nonagricultural sites.*

a. The Agency has determined that to avoid cancellation of registrations and denial of applications, the following lable changes are required for marmot/woodchuck control:

Do not expose baits in a manner which presents a likely hazard to pets, poultry, or livestock.

Do not place baits in piles.

Pick up and burn or bury all visible carcasses of animals found in or near treated areas.

The use of strychnine to control marmot/woodchucks is prohibited in all areas except where dens are located in rocky areas where fumigants cannot be used.

b. The Agency has determined that to avoid cancellation of registrations and denial of applications, the following label changes are required for porcupine control:

Treated salt blocks will be nailed at least ten feet above the snowline.

Use is prohibited in areas known to be occupied by the gray wolf or grizzly bear.

c. The use of strychnine to control jackrabbits is prohibited except around airports.

4. *Birds on croplands.* The Agency has determined that to avoid cancellation of registrations and denial of applications, the following label changes are required:

a. To control blackbirds, cowbirds, crowned sparrows, horned larks, house finch (linnets), and meadow larkes in orchards and vineyards:

Bait must be placed in troughs no less than 3 inches deep (v-shaped, with ends blocked to avoid spillage).

Troughs must be removable so that they can be cleaned out after each change of bait.

Troughs must be at least four feet from ground level.

Place troughs within orchards or vineyards where damage exists or is about to occur.

Expose strychnine bait sparingly—one-half inch deep in each trough.

Pick up and dispose of any bait spilled daily.

Pick up and burn or bury all visible bird carcasses at the end of each day.

b. To control horned larks on corps:

Expose bait sparsely in a depression between bedded crops.

Pick up and dispose of any bait spilled outside the depression daily.

Pick up and burn or bury all visible carcasses of birds at the end of each day.

5. *Bird on nonagricultural sites.* The Agency has determined that to avoid cancellation of registrations and denial of applications, the following label changes are required for the control of pigeons and house sparrows:

Pick up and dispose of uneaten pigeon bait after three days of exposure per site.

Inspect each site for nontarget species hazard daily.

Where uneaten bait is not easily retrievable, place in trays or v-shaped troughs.

Pick up and burn or bury all visible dead birds daily.

The use to control pigeons and sparrows will be prohibited in Puerto Rico for the protection of the Yellow-Shouldered Blackbird, and the Puerto Rican Plain Pigeon.

The use to control pigeons will be prohibited in the following areas for the protection of the Peregrine Falcon: Within five miles of aeries or critical habitats.

Do not use when migratory falcons may be pesent. Consult with local fish and game or regional Fish and Wildlife Service.

IV. Comments of Scientific Advisory Panel and Secretary of Agriculture

A. Comments of the Scientific Advisory Panel

Pursuant to section 25(d) of FIFRA, notices of intent issued under section 6(b) are to be submitted to an advisory panel "for comment as to the impact [of the proposed action] on health and the environment."

The Agency transmitted the Position Document 2/3 to the Scientific Advisory Panel (SAP) for review. On January 9, 1981 SAP responded to the Agency. Because FIFRA requires that the SAP's comments be printed in this Notice, they are reproduced in their entirety.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Strychnine

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing strychnine under the provisions of section 6(b)(2) of FIFRA as amended. The review was completed in an open meeting held in Arlington, Virginia, on December 11, 1980.

Maximum public participation was encouraged for the review. Public notice of the meeting was published in the Federal Register on November 21, 1980. In addition telephone calls were received from and mailings sent to the general public who had previously expressed an interest in activities of the Panel. Written and in most cases, oral statements were received from the technical staff of EPA's Office of Pesticide Programs, and from representatives of the U.S. Department of Agriculture, the California Department of Food and Agriculture, the Montana Department of Livestock, Texas A & M University, the New Mexico Department of Agriculture, the Wyoming Department of Agriculture, the Montana ranching community and others.

The excellent briefing by William Dickinson, Dave Eberly and other technical staff members from the Office of Pesticide Programs were of great value to the Panel.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the Panel unanimously submits the following report:

Report of Scientific Advisory Panel's Recommendations

The Panel reviewed each of the Agency's proposed actions under D. *Proposed Action* beginning on page 93 of the Strychnine Position Document No. 2/3. With regard to 1 *Rangeland Rodents—ground squirrel*, the Panel finds the Agency's arguments, presented under a. in support of the proposal for standardized bait concentrations of 0.20 percent active ingredient, to be inadequate, and suggest that EPA reconsider this level based on evidence now available and to be submitted during the comment period.

The Panel concurs with the Agency's recommendations under b. (p. 94), with the exception that the label language concerning pick up and burning or burial of all dead animals should be revised to make it more feasible, i.e., under certain circumstances it simply may not be possible to remove *all* dead animals.

The Panel concurs with the Agency's proposed action under c. (p. 94). However, the Panel recommends that, due to meager evidence of the effectiveness of bait dyeing, more research should be encouraged in this area.

With regard to d. (p. 94), the Panel finds the county-by-county prohibition on use of strychnine for ground squirrel control to be too restrictive, and suggests that the Agency discuss the proper wording of the restriction with the State of California, in the case of the endangered species inhabiting that State, and with Utah in the case of the Utah prairie dog. The Panel believes that solving the regulatory problem in a realistic manner without undue restriction is an important consideration here as well as the protection of endangered species.

The Panel fully concurs with the Agency's proposed label statement at the bottom of page 94.

With regard to 2. *Rangeland Rodents—prairie dogs* (p. 95), the Panel is unable to support a flat cancellation as proposed by the

EPA. Rather, the Panel recommends a postponement of any decision on the use of strychnine on prairie dogs until it becomes clear that alternative methods of control are available. For example, the Panel believes that it is unclear from the present data available whether zinc phosphide, which is the primary alternative means of control under consideration, is efficacious in controlling the prairie dog.

With regard to 3. *Rangeland Rodents—other rodents and lagomorphs*, the Panel approves the standardization of bait concentrations (a. p. 95) pending submission of further data on which concentrations are most desirable.

The Panel's recommendations relating to b. and c. (pg. 95–96) are similar to those relating to ground squirrel control. The additional States involved under d. should be consulted regarding proper wording of the restrictive label language. The Panel concurs with the Agency's proposal to cancel use of Strychnine for rangeland control of deer mice, meadow mice, chipmunks, and woodchucks.

Under. 4. *Cropland Rodents—ground squirrels*, 5. *Cropland Rodents—prairie dogs*, and 6. *Cropland rodents—other rodents and lagomorphs*, (p. 97), the Panel concurs with the Agency's proposed actions with the same exceptions and reservations as set forth under 1, 2, and 3 above. The Panel concurs with the Agency's proposed course of action under 7. *Rodents and Lagomorphs on Nonagricultural Sites* (p. 97).

Under 8. *Birds on Cropland*, a. (p. 98) the Panel's statement under 1.a above is applicable. With regard to b. the Panel's reservation under 1.b is applicable. Also the Panel believes 8.b should be rewritten to allow a certain degree of flexibility to cover special circumstances.

Under 9. *Birds on Nonagricultural Sites* a, b, and c (p. 99), the Panel's previous statements concerning bait concentrations and baiting and past baiting procedures are applicable. The Panel concurs with d. (pg. 99–100) with the same reservations as expressed above regarding protection of endangered species.

For the Chairman: Philip H. Gray, Jr., Acting Executive Secretary, FIFRA Scientific Advisory Panel. Date: January 9, 1981

B. Response to Comments of the SAP

The SAP commented concerning the standardized bait concentration proposals for all pests, that the agency should reconsider lowering these concentrations without adequate data to back up these proposals. The Agency agrees with this comment and will not lower the bait concentrations at this time but will require that data be submitted for ground squirrels to determine the lowest efficacious level for each species of concern.

The Agency agrees with the SAP concerning the label language requiring the removal of all dead animals from a treated area. The statement will be revised to indicate the removal of all visible dead animals.

In regard to the SAP comments concerning the county-by-county restrictions for the protection of endangered species in California, the Agency recognizes that these species may very well be adequately protected under the California Department of Food and Agriculture's Joint Policy Statement Regarding Rare or Endangered Species. The Agency agrees that these protective agreements can be effective, and therefore will rely on them as long a the CDFA submits current guidelines for protecting each species and any subsequent changes to the Agency for review and approval. No substantive comments were received concerning the restrictions for the protection of the Utah prairie dog; therefore, those specific county-by-county restrictions will remain.

The SAP stated that the Agency should postpone any decisions on the use of strychnine on prairie dogs until it is clear that alternative methods of control are available. In March of 1983, the Agency requested an opinion from the U.S. Fish and Wildlife Service concerning this use of strychnine. They indicated in a letter that it will be Service policy not to use, recommend for use, sell, or distribute strychnine grain baits for prairie dog control within the historic range of the black-footed ferret, and that their policy is to substitute the use of zinc phosphide for strychnine (where allowed by registration) for prairie dog control. The Agency's decision is therefore consistent with Fish and Wildlife Service policy. In addition, it is the Agency's opinion that available data demonstrate that zinc phosphide is an efficacious as strychnine if prebaiting is used. Because the risk from strychnine to endangered species and nontarget animals is greater than with zinc phosphide, the Agency believes the use must be cancelled.

The Agency agrees with the Panel's reservations expressed concerning cropland rodents, birds on croplands, and birds on nonagricultural sites. These reservations concerning bait concentrations, baiting procedures, geographical restrictions are the same as previously mentioned, and the Agency's position has been changed as outlined above.

C. Comments of the Secretary of Agriculture

Dr. John A. Todhunter (TS–788),
Assistant Administrator-Designate for Pesticide and Toxic Substances, U.S. Environmental Protection Agency Washington, D.C. 20460.

Dear Dr. Todhunter: This is a further response to your "Preliminary Notice of Determination Concluding the Strychnine RPAR."

The U.S. Department of Agriculture (USDA) wrote on January 8, 1981, that it would require an extended length of time to adequately comment on the strychnine Notice of Determination. The EPA determined that the uses of strychnine meet or exceed the risk criteria outlined in 40 CFR 162.11 for hazards to wildlife and endangered species. Those determinations were documented in the Strychnine Position Document No. 2/3 and Preliminary Benefits Analysis.

At the time we originally reviewed the PD 2/3, the Department identified several deficiencies which included: (a) The cost of alternative controls were overestimated; (b) specific attention was not given to the impact of the proposed regulatory actions on agricultural conservation practices; (c) the impact to the regulatory actions on USDA program responsibilities was not taken into account, and (d) risks to wildlife in the environment were overstated. We recognized that EPA was faced with a scarcity of data and, thus, as stated in the PD 2/3, judgment had to be used.

In PD 2/3 EPA determined that the cancellation of certain above ground uses will not have a significant impact on the production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. We disagree with EPA's analysis as well as the proposed action. Our review found that the continued use of the registered above ground use of the rodenticide strychnine does not pose a significant environmental risk to wildlife or endangered species when the rodenticide is used in accordance with the directions for use on the label.

We believe that the proposed action poses significant economic, social, and environmental costs to the agricultural community. The USDA review of EPA's analysis indicates that this analysis failed to gauge the full range of these impacts of its proposed action on the agricultural community. It is our present view that EPA inaccurately estimated the risks and then incorrectly weighed then against the benefits. USDA believes that the level of risk assigned by the EPA to endangered species is overstated because risk was calculated on the basis of probability of poisoning individuals or populations of endangered species by incorrectly asuming that they coincide with the pest species in the target area. Aslo, the equating to "little use" with "little significance" has led to an underestimation of impacts on the user when the actual value of the agricultural product or site protected is not taken into account. EPA's benefit analysis also included an inaccurate evaluation of the alternatives, and an underestimation of the magnitude of the pest problems for which the use of strychnine is considered necessary.

We have assembled additional information. Some of this information is attached to this response and the rest will be provided in the near future. Based upon the information we have been able to assemble, of which a significant portion falls into the category of expert judgment, we conclude that the benefits of the use of strychnine

exceed the risks. Specifically, it is the opinion of the Department that the following uses are critical to agriculture for which effective and suitable alternatives are not currently available.

- Rangeland rodents—ground squirrel (without EPA proposed modifications concerning standardized bait and bait bans).
- Rangeland rodents—prairie dog (with label modifications that allow supervised use in areas where the black-footed ferret is a factor).
- Rangeland rodents—other rodents and lagomorphs (without EPA proposed modifications concerning standardized baits and area bans).
- Cropland rodents—ground squirrels (without EPA proposed modifications concerning standardized bait and area restrictions).
- Cropland rodents—prairie dogs (with label modifications that allow use in areas where the black-footed ferret is a factor).
- Cropland rodents—other rodents and lagomorphs.
- Rodents and lagomorphs on nonagricultural sites.
- Birds on croplands.
- Birds on nonagricultural sites.

Until there are effective alternatives, we believe that these uses should be maintained. Agricultural benefits are clearly demonstrable and the risks can be kept below acceptable levels through correct labeling and use.

We appreciate your agreement on January 8 to extend the response time. Attached with these comments, as part of our official response, is a report developed for the Department by Dr. Terrel P. Salmon, University of California, which contains an indepth analysis of efficacy, toxicology and alternatives. We will be providing additional data to support our comments and recommendations made in this response. At that time, we will be happy to sit down with you and your staff to further discuss any points that may still need clarification.

If you have any questions regarding this response, please contact Richard L. Dunkle, Coordinator, Pest Management and Toxic Substances, Phone (202) 447-4751.

Sincerely,

Anson R. Bertrand,

Director, Science and Education.

D. Response to Comments of the USDA

The Agency has fully responded to all of the USDA's comments in the Position Document. In the Benefit Analysis unit of the document the economic impacts of the cancellation or modification to the registrations of certain uses of strychnine were fully analyzed and the findings have been included. The Agency does not agree with the USDA on some of its points, and the specifics are outlined in the document. The Agency weighed the risks against the benefits for each proposed action, using data supplied by various state and Federal agencies (U.S. Fish and Wildlife Service, for example), and arrived at the current position. The information supplied by the USDA was not enough to change the Agency's proposed position in most cases.

V. Procedural Matters

This Notice announces the Administrator's intent to cancel certain uses of strychnine, to modify label requirements for certain other uses, and to deny any applications for registration for pesticide products containing strychnine unless the requirements of this Notice are satisfied. As provided in FIFRA sections 6(b) and 3(c)(6), the cancellations and denials proposed in this Notice

shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice.

Unless the necessary steps to make the changes required by this Notice are taken within 30 days, or unless a hearing is properly requested to contest the cancellation or denial of the registrations for strychnine products, the cancellation or denial actions will become final at the end of 30 days. The 30-day time period in which to request a hearing is applicable to all the regulatory actions proposed in this Notice. This unit of the Notice explains how registrants and applicants may seek to make any necessary corrections to modify the terms and conditions of registration and how registrants, applicants, and other adversely affected parties may requests a hearing on the cancellation or denial action set forth in this Notice.

A. Intastate Products

The Agency is aware of a number of pesticide products containing strychnine which are not federally registered and which are being marketed under the authority of 40 CFR 162.17. The Agency hereby notifies all persons producing or distributing such products that they must submit a full application for Federal registration, including all required supporting data as prescribed by the provisions of section 3 of FIFRA and of 40 CFR Part 162, within 30 days of receipt of this Notice or publication in the **Federal Register**, whichever is later. The Agency further notifies all such applicants that only products which conform with the requirements of this Notice will be registered. Any person who wishes to register a product which would not conform with the requirements of this Notice is informed that this Notice is a denial of his application, and if he wishes to contest the denial, he must request a hearing within the applicable 30-day period provided by this Notice.

The 30-day period in which to request a hearing applies to all regulatory actions in this Notice, including all denials of registration, all cancellations, and all registrations which must be amended to implement changes in the terms and conditions of use in order to avoid cancellation. Notice, may be continued until such stocks are exhausted; provided that the product shall not be used inconsistent with its labeling.

B. Procedures for Amending the Term and Conditions of Registration

To make the changes required to avoid cancellation, registrants, within 30 days of receipt of this Notice, must submit amended label(s) and application(s) for amended registration (s) making the necessary corrections. In addition, any applications for Federal registration pursuant to 40 CFR 162.17 must be submitted within 30 days from the rceipt of this Notice. Five copies of the amended labeling and an application for amended registration(s) or § 162.17 registration applications must be submitted to:

William Miller, Product Manager 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2600).

C. Procedure for Requesting a Hearing

Registrants adversely affected by the actions described above and any application for registration whose applications have been denied by this Notice may request a hearing on such actions within 30 days of receipt of this Notice, or within 30 days of publication of this Notice in the **Federal Register**, whichever occurs later. Any other person adversely affected by the actions described above or any interested party with the concurrence of an applicant whose application for registration has been denied may request a hearing within 30 days of publication of this Notice in the **Federal Register**.

All registrants, applicants, and other interested affected parties, who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that (1) all requests must identify the specific registration(s) by registration number(s) and the specific use(s) for which a

hearing is requested, (2) all requests must be accompanied by objections that are specific for each use of the identified pesticide product for which a hearing is requested, and (3) all requests must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing.

Request for a hearing must be submitted to:

Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

D. Consequence of Filing or Failing to File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's rules of practice for hearings under FIFRA section 6 (40 CFR Part 164). The hearing will be limited to those used and registrations (or applications) for which a hearing has been requested.

2. *Consequences of failure to file in a timely and effective manner.* If a hearing concering the cancellation or denial of registration of a specific use of a specific pesticide product containing strychnine has not been requested by the end of the applicable 30-day period, registration of that strychnine product will be cancelled, unless the applicant amends the terms and conditions of his registration as required by this Notice. Similarly, if a hearing is not requested to contest the denial of a registration within the applicable 30-day period, the denial will be effective at the close of that period.

Dated: September 30, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-28155 Filed 10-18-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-289]

Albuquerque Federal Savings and Loan Association Albuquerque, New Mexico; Final Action Approval of Conversion Application

Notice is hereby given that on September 26, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Albuquerque Federal Savings and Loan Association, Albuquerque, New Mexico, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261-9026.

Dated: October 13, 1983.

By the Federal Loan Bank Board.

John A. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-28474 Filed 10-18-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-288]

Dallas Federal Savings and Loan Association, Dallas, Texas; Final Action Approval of Conversion Application

Notice is hereby given that on September 28, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Dallas Federal Savings and Loan Association, Dallas, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261-9026.

Dated: October 13, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-28475 Filed 10-18-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-286]

Olney Savings Association, Olney, Texas; Final Action Approval of Conversion Application

Notice is hereby given that on September 26, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Olney Savings Association, Olney, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, Post Office Box 619026, Dallas/Fort Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-28477 Filed 10-18-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-287]

United Federal Bank, FSB, Manchester, New Hampshire; Final Action Approval of Conversion Application

Notice is hereby given that on September 29, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegate to the General Counsel or his designee, approved the application of United Federal Bank, FSB, New Hampshire, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, P.O. Box 2196, Boston, Massachusetts 02106.

Dated: Ocotber 13, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-28476 Filed 10-18-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed, etc.

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission,

Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: T-3508-3.

Title: Palm Beach/West India Lease Amendment.

Parties: Port of Palm Beach (Port)/ West India Shipping Company, Inc. (West India).

Synopsis: Agreement No. T3508-3 modifies the basic agreement between the parties which provides for the lease by Port to West India of storage, warehouse, and wharf space. The purpose of the modification is to reduce the leased premises by 6,500 square feet, with corresponding reduction in rental.

Filing Agent: Mr. Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Agreement No: 10386-4.

Title: Northbound Argentina/U.S. Atlantic Trade.

Parties: A. Bottacchi S. A. De Navegacion C.F.I.I., Cia. De Navegcao Lloyd Brasileiro, Cylanco S.A., Empresa Lineas Maritimas Argentinas S. A., Moore-McCormack Lines, Inc., Reefer Express Lines Pty., Ltd., Van Nievelt, Gourdriaan & Co. B. V. (Holland Pan Am).

Synopsis: Agreement No. 10386-4 would amend the basic agreement to (1) Extend the agreement for an additional three years; (2) provide for a new member of the Agreement; (3) make minor adjustments in certain party's shares; and (4) make other minor modifications to the accounting provisions of the Agreement.

Filing Party: John D. Straton, Jr., Esquire, Director, South American Rates and Conferences, Moore McCormack Lines, Inc., 27 Commerce Drive, Cranford, New Jersey 07016.

Agreement No: 10388-2.

Title: Southbound Argentina/U.S. Atlantic Trade.

Parties: A. Bottacchi S. A. De Navegacion C.F.I.I., Empresa Lineas Maritimas Argentinas S. A., Moore McCormack Lines, Incorporated

Synopsis: Agreement No 10388-2 would amend the basic agreement to (1) Extend the agreement for an additional three years and (2) make minor adjustments in the pool accounting provisions of the Agreement.

Filing Party: John D. Straton, Jr., Esquire, Director, South American Rates & Conferences, Moore McCormack Lines, Inc., 27 Commerce Drive, Cranford, New Jersey 07016.

By Order of the Federal Maritime Commission.

Dated: October 13, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28442 Filed 10-18-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License No. 2311, Kanical Aero-Marine Services, Inc.; Reissuance of License

By Notice served and published in the **Federal Register**, Independent Ocean Freight Forwarder License No. 2311 was revoked, effective July 13, 1983. The license had been returned for voluntary revocation on July 13, 1983. The Notice of Revocation was served on July 15, 1983.

Kanical Aero-Marine Services, Inc., now seeks to have its license reissued. An appropriate surety bond has been received.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in section 9.09(a) of Commission Order No. 1 (Revised), dated September 27, 1983, Independent Ocean Freight Forwarder License No. 2311 shall be reissued to Kanical Aero-Marine Services, Inc., effective October 12, 1983. A copy of this Notice shall be published in the **Federal Register** and served upon Kanical Aero-Marine Services, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-28443 Filed 10-18-83; 8:45 am]

BILLING CODE 6730-01-M

Matson Terminals, Inc. and Nippon Yusen Kaisha; Termination of Agreement No. T-3737

The parties to the above referenced agreement have advised that the agreement has been terminated by the parties effective September 29, 1983.

By Order of the Federal Maritime Commission.

Dated: October 13, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28496 Filed 10-18-83; 8:45 am]

BILLING CODE 6730-01-M

Nippon Yusen Kaisha and Matson Agencies, Inc.; Termination of Agreement No. 10348

The parties to the above referenced agreement have advised that the agreement has been terminated by the parties effective September 29, 1983.

By Order of the Federal Maritime Commission.

Dated: October 13, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28495 Filed 10-18-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Behrens Bancshares, Inc.; Formation of Bank Holding Company

Behrens Bancshares, Inc., New London, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring, directly and indirectly through its subsidiary, Behrens, Inc., 99.2 percent or more of the voting shares of Ralls County State Bank, New London, Missouri, and 98.8 percent or more of the voting shares of Center State Bank, Center, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Behrens Bancshares, Inc., New London, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in general insurance activities in communities that have populations not exceeding 5,000. These activities would be performed from offices of Applicant and Applicant's subsidiaries in New London and Center, Missouri, and the geographic areas to be served are the communities of New London and Center, Missouri. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or

unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than November 4, 1983.

Board of Governors of the Federal Reserve System, October 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28354 Filed 10-18-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; First Arkansas Bankstock Corporation

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas ("Applicant"); to acquire indirect control of 98.9 percent of the voting shares or assets of Peoples Bank & Trust Company, Russellville, Arkansas ("Bank"), through the merger of Bank's parent company, Pope County Bankshares, Inc., Russellville, Arkansas, into Applicant's wholly-owned subsidiary, FABCO Sub, Inc., Little Rock, Arkansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28357 Filed 10-18-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; NBN Corporation

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *NBN Corporation*, Newport, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of National Bank of Newport, Newport, Tennessee. Comments on this application must be received not later than November 10, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Truman Bancshares, Inc., Truman, Minnesota; to become a bank holding company by acquiring 97 percent of the voting shares of Peoples State Bank of Truman, Truman, Minnesota. Comments on this application must be received not later than November 8, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *National American Bancorp*, San Francisco, California; to become a bank holding company by acquiring 100 percent of the voting shares of National American Bank, San Francisco, California. Comments on this application must be received not later than November 8, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *FABCO Sub, Inc.*, Little Rock, Arkansas; to become a bank holding company by acquiring 98.9 percent of the voting shares of Peoples Bank & Trust Company, Russellville, Arkansas ("Bank"), through merger with Bank's parent company, Pope County Bankshares, Inc., Russellville, Arkansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28356 Filed 10-18-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Citizens Bancorporation

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating

how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorporation,* Sheboygan, Wisconsin, (lending activities; continental United State): To engage, through its subsidiary, Citizens Mortgage Company, Inc., in making and acquiring loans and other extensions of credit, for its own account or for the account of others. These activities previously have been proposed to be conducted in Wisconsin and the upper peninsula of Michigan, from an office to be located in Milwaukee, Wisconsin. Applicant proposes to expand the geographic service area to include all 48 contiguous continental states (all states except Alaska and Hawaii). Comments on this application must be received not later than November 3, 1983.

2. *Dunn Shares, Inc.,* Eagle Grove, Iowa, (leasing activities; North Central Iowa): To engage in leasing personal property or acting as agent broker or adviser in leasing such property in accordance with the provisions of 12 CFR 225.4(a)(6)(i). These activities will be performed from an office in Eagle Grove, Iowa servicing Greene, Boone, Story, Marshall, Calhoun, Webster, Hamilton, Hardin, Grundy, Pocahontas, Humboldt, Wright, Franklin, Butler, Palo Alto, Emmet, Kossuth, Hancock, Cerro Gordo, Floyd, Winnebago, Worth, and Mitchell counties in Iowa. Comments on this application must be received not later than November 8, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Jacinto City Bancshares, Inc.,* Houston, Texas (financing activities; Texas): To engage through its subsidiary, Mercury Acceptance Corporation, in making or acquiring loans and other extensions of credit such as would be made by a consumer finance company in accordance with the Board's Regulation Y and applicable provisions of the Texas Credit Code. The service area will be Harris County, Texas and the office will be located in Houston, Texas. Comments on this application must be received not later than November 10, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation,* San Francisco, California (financing and servicing activities; United States): To engage, through its indirect susidiary, MerCredit Corporation, in the activities of making loans and other extensions of credit, servicing loans and other extensions of credit for itself and others, and providing services incidental to such loans and extensions of credit such as are made or provided by a finance company. Such activities will include, but not be limited to, providing funds and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products. These activities would be conducted from an existing office of FinanceAmerica Private Brands Inc., another indirect subsidiary of BankAmerica Corporation, in Irving, Texas, serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than November 10, 1983.

2. *Security Pacific Corporation,* Los Angeles, California (financing and credit-related insurance activities; California): To engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company and acting as broker or agent for the sale of credit life, accident and health insurance, and credit property insurance, such insurance activities being permitted pursuant to section 601 (A) and (D) of Title VI of the Garn-St Germain Act. These activities would be conducted from an office of Security Pacific Finance Corp., located in City of Industry, California, serving the State of California. Comments on this application must be received not later than November 10, 1983.

3. *Security Pacific Corporation,* Los Angeles, California (financing and credit-related life, accident and health insurance activities; New York): To engage, through its subsidiaries, Security Pacific Finance Corp. and SPF Credit Services, Inc. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance, such insurance activities being permitted pursuant to section 601 (A) and (D) of Title VI of the Garn-St Germain Act. These activities would be conducted from an office of Security Pacific Finance Corp. and SPF Credit Services, Inc. located in Staten Island, New York, serving the State of New York. Comments on this application must be received not later than November 10, 1983.

Board of Governors of the Federal Reserve System, October 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28355 Filed 10-18-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 76C-0369]

FD&C Red No. 4; Denial of Petition for Permanent Listing; Availability of Commissioner's Decision

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a Final Decision by the Commissioner of Food and Drugs affirming the Initial Decision which denied the petition for permanent listing of FD&C Red No. 4 for use in maraschino cherries and ingested drugs.

ADDRESS: The transcript of the hearing, the evidence submitted, and all other documents cited in this decision may be seen in the Dockets Management Branch (HFA-305), Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

DATE: The Final Decision is effective December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Allen Heim, Office of Science Coordination (HF-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1587.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 12.130(e), FDA is announcing that the Commissioner of Food and Drugs has issued a Final

Decision following a formal evidentiary public hearing to consider objections to the agency's denial of the petition for permanent listing of FD&C Red No. 4 for use in maraschino cherries and ingested drugs. The Commissioner has determined that the studies submitted do not establish that Red No. 4 will be safe for any ingested use. The Commissioner has therefore affirmed the Initial Decision, which denied the petition, as supplemented and modified by the final decision. (FD&C Red No. 4 has not been used for the uses in question since 1976.)

Dated: October 12, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-28540 Filed 10-17-83; 10:36 am]

BILLING CODE 4160-01-M

Public Health Service

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants; Cancellation of Meeting

Notice is hereby given that the meeting of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants scheduled to be held October 24–25, 1983 at the Brooks Air Force Base School of Aerospace Medicine in San Antonio, Texas has been cancelled. (48 FR 44660; September 29, 1983)

Persons who desire additional information may contact the Executive Secretary, Peggy McKinney, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–4182 or FTS 629–4182.

Dated: October 7, 1983.

John A. Moore,

D.V.M. Chairman.

[FR Doc. 83-28608 Filed 10-18-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Buffalo Resource Area; Wyoming; Call for Coal Resource Information

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for coal resource information.

SUMMARY: As stated in the Notice of Intent published on February 11, 1982 (**Federal Register**, Vol. 47, No. 29, Page 6383), the Buffalo Resource Area of the Casper District has initiated a resource management plan/environmental impact statement (RMP/EIS) to guide future management actions on the public lands within the Resource Area. This "call for coal resource information" is a new regulation procedure (43 CFR 3420.1–2) and is being issued to assure that federal coal resources and potential development are given adequate consideration.

All parties are invited to identify any *new* coal areas and data they are interested in having considered for possible future third-round regional coal leasing in 1987 or later. This does not include areas already covered by coal planning as defined in the Highlight Coal Supplement to the Eastern Powder River Basin Management Framework Plan (MFP)—1979, the Gillette Review Area Coal Amendment to the Eastern Powder River Basin MFP—1980, the Western Powder River Coal Amendment to the Western Powder River Basin MFP—1981, and the Recluse Review Area Coal Amendment to the Eastern Powder River Basin MFP—1982, and the Unsuitability Criteria Assessment—Thunder Basin National Grassland 1982, USDA—Forest Service.

Consult these amendments and assessment or contact the Buffalo Resource Area at the address below for information or identification of specific coal areas already subjected to coal planning.

ADDRESS: Glenn Bessigner, Area Manager, Buffalo Resource Area, P.O. Box 670, Buffalo, WY 82834, Telephone (307) 684–5586.

The BLM will *not* conduct any coal resource inventories for this RMP/EIS. Parties interested in Federal coal leasing and development in new areas will be expected to provide coal resource data for their areas of interest.

DATE: Submissions of new coal data and areas of interest must be adequate and timely if they are to be considered in the plan. Therefore, new coal areas of interest for possible leasing consideration and associated coal data must be submitted to the address noted above by November 21, 1983. Areas of interest and accompanying data submitted for areas inside the Thunder Basin National Grasslands will be sent to the USDA-Forest Service, Medicine Bow National Forest in Laramie, Wyoming.

Considering present time and budget constraints, areas that cannot be addressed may be considered in future planning. This RMP/EIS is scheduled to be completed by October of 1984.

James W. Monroe,

District Manager.

[FR Doc. 83-28590 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

Platte River Resource Area, Wyoming; Call for Coal Resource Information

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for coal resource information.

SUMMARY: As stated in the Notice of Intent published on February 15, 1982 **Federal Register**, Vol. 45, No. 33 Pages 10462 and 10463) the Platte River Resource Area of the Casper District has initiated a resource management plan/environmental impact statement (RMP/EIS) to guide future management actions on pulic lands with the Resource Area. This "call for coal resource information" is a new regulation procedure (43 CFR 3420.1–2) and is being issued to assure that federal coal resources and potential development are given adequate consideration.

All parties are invited to identify any *new* coal areas and data they are interested in having considered for possible future third-round regional coal leasing in 1987 or later. This does not include areas already covered by coal planning as defined in the Converse County Review Area Amendment to the Eastern Powder River Basin Management Framework Plan (1983), and the Unsuitability Criteria Assessment-Thunder Basin National Grassland 1982, USDA-Forest Service.

Consult this amendment and assessment or contact the Platte Resource Area at the address below for identification of specific coal areas already subject to coal planning.

ADDRESS: Mr. Jim Melton, Area Manager, Platte River Resource Area, 951 Rancho Road, Casper, WY 82601. Telephone: 307–261–5556.

The BLM will *not* conduct any coal resource inventories for this RMP/EIS. Parties interested in Federal coal leasing and development in new areas will be expected to provide coal resource data for their areas of interest.

DATE: Submissions of new coal data and areas of interest must be adequate and timely if they are to be considered in the plan. Therefore, new coal areas of interest for possible leasing consideration and associated coal data must be submitted to the address noted above by November 21, 1983.

Areas of interest and accompaning data submitted for areas inside the Thunder Basin National Grasslands will be sent to the USDA-Forest Service Medicine Bow National Forest in Laramie, Wyoming. Considering present time and budget constraints, areas that cannot be addressed may be considered in future planning. This RMP/EIS is scheduled to be completed by October of 1984.

James W. Monroe,

District Manager.

[FR Doc. 83-28361 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Intent To Hold Public Scoping Meetings and To Prepare an Environmental Impact Statement for Three (3) Coal Preference Right Lease Applications (PRLA's), Located in the Craig District, Colorado, Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Scoping Meetings and Notice to Prepare An EIS (Northwest Colorado Coal Preference Right Lease Applications Environmental Impact Statement).

SUMMARY: This notice advises the public that the Bureau of Land Management intends to hold meetings to gather information and seek assistance in defining the range of uses and concerns for preparation of an Environmental Impact Statement (EIS) for three coal PRLAs (C-4275, C-0125366, C-0125854) located within Jackson and Rio Blanco Counties, Colorado. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations (43 CFR 1501.7 and 1508.22) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS: An information packet and PRLA location map will be available upon request from the White River Resource Area Office at the address given below and at the public meetings. Meeting dates and places are as follows:

Place	Date	Time	Address
Walden, Colo.	Nov. 15, 1983	7 p.m.	Basement of Soil, Conservation Service Office, corner of 5th and Logan, Walden, Colo.
Meeker, Colo.	Nov. 16, 1983	7 p.m.	BLM, WRRA Office, 2 miles west of Meeker, Colo.

Oral testimony and submission of written comments will be received at the meetings, or written comments may be mailed to Curt Smith, Area Manager, Bureau of Land Management, White River Resource Area, P.O. 928, Meeker, Colorado, 81641. Written comments will be accepted through November 21, 1983.

SUPPLEMENTARY INFORMATION: The EIS is intended to evaluate leasing alternatives as well as identifying mitigating measures and special stipulations that the applicant must take into consideration when preparing the PRLA's final showing. Alternatives that have been tentively identified include the following: (1) No Action, or no development alternative, (2) Applicants Proposed Action (initial showing), and (3) Applicants Proposed Action Incorporating BLM Mitigating Measures and Special Stipulations. The purpose of the meetings is to encourage participation from interested persons in defining significant environmental issues and concerns which may result from the issuance of noncompetitive coal leases on the three (3) areas.

Oral presentations may be made in lieu of or in addition to any written comments submitted. Each witness will be limited to a maximum of ten minutes of oral presentation. The text of any prepared presentation materials may be given to the EIS Team Leader at the meetings.

The agenda for the scoping meetings will be as follows:

1. Introduction:

a. Purpose and Intent of Meeting;

b. Location and Description of the PRLAs;

c. Description of Issues Identified During Pre-analysis;

d. Discussion of Possible Alternatives to be Considered in the EIS; and

e. Public Comment Period will close November 21, 1983.

2. Solicitation of public comment, recommendations, and issues of major concern to be considered and addressed in the EIS.

Potential issues in the area associated with development of these PRLAs, include impacts to wildlife and groundwater hydrology.

Preparation of the EIS will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR 1500), Federal Coal Management Regulations (43 CFR 3430), and other Federal laws and regulations, and Department of the Interior policies and procedures.

Dated: October 4, 1983.

Ralph Smith,

Acting State Director, Colorado, Bureau of Land Management.

[FR Doc. 83-28447 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

Butte District, Montana; District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Butte District Advisory Council will be held Tuesday and Wednesday, November 15 and 16, 1983.

The meeting will begin at 1 p.m., November 15 in the conference room of the Butte District Office at 106 North Parkmont, Butte, Montana. The agenda will include (1) Garnet RMP update, (2) Headwaters RMP update, (3) a panel discussion on public land sales procedures, (4) a discussion on sodbusting, (5) an update on the Dillon Land Adjustment Program, and (6) an update on legislation affecting BLM.

The meeting is open to the public. Interested persons may make oral statements to the council or file written statements for the council's consideration. Anyone wishing to make an oral statement should make advance arrangements with the District Manager.

Summary minutes of the meeting will be maintained in the district office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: October 11, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83-28444 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

[W-58930; W-79856]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of Pub. L. 31-245 and Title 43 Code of Federal Regulations, Section 3108.2-1(c), and Pub. L. 97-451, petitions for reinstatement of oil and gas lease W-

58930 for lands in Campbell County, Wyoming and oil and gas lease W-79856 for lands in Carbon County, Wyoming, were timely filed and were accompained by all the required rentals accruing from their respective date of termination.

The lessees have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and will reimburse the Department for the cost of this **Federal Register**, notice.

The lessees having met all the requirements for reinstatement of the leases as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C 188), the Bureau of Land Management is proposing to reinstate lease W-58930 effective June 1, 1983, and lease W-79856 effective August 1, 1983, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Harold G. Stinchcomb,

Chief, Branch of Fluid Minerals.

[FR Doc. 83-28446 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-166]

Import Investigations; Certain Computerized Jacquard Pattern Cutting Systems; Order

Pursuant to my authority as Chief Administrative Law Judge of this Comission, I hereby designate Administative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: October 12, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-28465 Filed 10-18-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-123 (Final)]

Certain Flat-Rolled Carbon Steel Products From Brazil

AGENCY: United States International Trade Commission.

ACTION: Revised notice of institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: October 12, 1983.

SUMMARY: The definition of the products included within the scope of this investigation is hereby expanded to include those flat-rolled carbon steel products provided for in item 607.6610 of the Tariff Schedules of the United States Annotated (TSUSA). The Commission will hold a public hearing in connection with this investigation on January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Judith Zeck (202-523-0339), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Products Covered by the Investigation

On September 28, 1983, the United States International Trade Commission published in the **Federal Register** (48 FR 44279) notice of the institution of its final antidumping investigation No. 731-TA-123 (Final) relating to certain flat-rolled carbon steel products from Brazil. The original notice stated that the products included within the term certain flat-rolled carbon steel products were provided for in TSUSA items 607.6615, 607.9400, 608.0710, and 608.1100. This notice hereby expands the scope of this investigation to include those flat-rolled carbon steel products provided for in TSUSA item 607.6610; this item number was inadvertently omitted from the Commission's original notice.

Hearing

The original notice of institution of the investigation stated that the date of the Commission's hearing to be held in connection with the investigation would be announced later. On September 23, 1983, the Department of Commerce postponed the scheduled date for making its final determination in its investigation of less-than-fair value sales from Brazil from November 14, 1983, to January 20, 1984 (48 FR 43365). Accordingly, the Commission's public hearing is hereby scheduled to begin at 10 a.m. on January 31, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 26, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10 a.m. on January 23, 1984, in room 117 of the U.S. International Trade Commission Building.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on February 7, 1984.

Staff Report

A public version of the prehearing staff report containing preliminary findings of fact in this investigation will be placed on the public record on January 16, 1984, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigations on or before February 7, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

By order of the Commission.

Issued: October 13, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-28466 Filed 10-18-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-75]

Import Investigation; Certain Large Video Matrix Display Systems and Components Thereof; Order No. 24

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this

investigation as remanded by the Commission.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: October 13, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-28487 Filed 10-18-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation Nos. 731-TA-125 and 126 (Final)]

Potassium Permanganate From the People's Republic of China and Spain

AGENCY: United States International Trade Commission.

ACTION: In conformance with the determination of the International Trade Administration of the Department of Commerce to amend its schedule for the conduct of the referenced investigations, the Commission hereby revises its schedule as follows: the prehearing conference will be held on November 21, 1983; the hearing will be held on December 2, 1983; and the Commission's final determinations shall be issued on or before Janauary 5, 1984.

EFFECTIVE DATE: October 7, 1983.

SUPPLEMENTARY INFORMATION: The Commission instituted these final antidumping investigations effective August 9, 1983, and scheduled a hearing to be held in connection therewith for October 28, 1983 (48 FR 39519, Aug. 31, 1983). However, the Department of Commerce extended the investigations in response to requests from producers of the subject merchandise in the People's Republic of China and Spain. The effect of the extensions was to change the scheduled date for Commerce to make its final determinations from October 17, 1983, to November 22, 1983. Accordingly, the Commission is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's hearing, which was to have been held on October 28, 1983, has been rescheduled to begin at 10 a.m. on December 2, 1983, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 18, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:30 a.m. on November 21, 1983, in room 177 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 28, 1983. A public version of the prehearing staff report containing preliminary findings of fact in these investigations will be placed in the public record on November 17, 1983. The deadline for filing posthearing briefs will be announced at the hearing.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202-523-0399), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

By order of the Commission.

Issued: October 11, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-28484 Filed 10-18-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave. NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395-7313.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Revenue, Expenses & Statistics
OMB Form No.: 3120-0022
Agency Form No.: QPA
Frequency: Quarterly-Annually
Respondents: Class I Motor Carriers of Passengers
No. of Respondents: 68
Total Burden Hrs.: 1,632

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Condensed Balance Sheet
OMB Form No.: 3120-0063
Agency Form No.: CBS
Frequency: Quarterly-Annually
Respondents: Class I Railroad
No. of Respondents: 30
Total Burden Hrs.: 720

Type of Clearance: Revision
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Railroad Employees Service & Compensation
OMB Form No.: 3120-0074
Agency Form No.: Annual Wage A&B M-300
Frequency: Annually
Respondents: Class I Railroads
No. of Respondents: 30
Total Burden Hrs.: 1,200

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Affairs
Title of Form: Notice of Intent to Perform Interstate Transportation for Certain Nonmembers under 49 USC 10526 (A)(5)
OMB Form No.: 3120-0005
Agency Form No.: OCP-102
Frequency: on Occasion
Respondents: Agricultural Cooperatives
No. of Respondents: 50
Total Burden Hrs.: 25

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28413 Filed 10-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-25)]

Intrastate Rail Rate Authority; Ohio

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission is extending the provisional certification of the Public Utilities Commission of Ohio under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, pending submission of standards and procedures and its modifications of Ohio statutes as noted in the full decision.

DATES: The Public Utilities Commission of Ohio must submit proper standards and procedures and make necessary statutory amendments by December 19, 1983, or lose provisional certification. Comments by interested parties are due January 16, 1984. Ohio's reply is due March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: October 12, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and

Gradison. Chairman Taylor concurred in part and dissented in part with a separate expression. Commissioner Andre concurred in the result.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83-28417 Filed 10-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30253]

Rail Carriers; Anthracite Railway, Inc.—Exemption From 49 U.S.C. 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the reissuance of 10,000 shares of common stock at a par value of one cent per share.

DATES: This exemption will be effective on November 21, 1983. Petitions to stay the effectiveness of this decision must be filed by October 31, 1983, and petitions for reconsideration must be filed by November 8, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30253:

(1) Office of Secretary, Case Control Branch, Interstate Commerce Commission Washington, D.C. 20423

(2) Petitioner's representative: John D. Heffner, 1776 K Street NW., Suite 700, Washington, DC 20006

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: October 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Grandison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28415 Filed 10-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 274 (Sub-3B)]

Abandonment of Railroad Lines; Use of Opportunity Costs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of rate of return.

SUMMARY: The Commission finds that in abandonment proceedings decided after this notice becomes effective, the appropriate rate of return to be used in calculating opportunity costs is 22.3 percent. Other rates of return which are supported by clearly explained methodologies and evidence will be considered on a case by case basis.

DATE: This notice will be effective on November 18, 1983.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275-7245
Waybe A. Michel, (202 275-7657

or

Karen A. Osterloh, (202) 275-7483

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: October 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre Dissented with a separate expression.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28416 Filed 10-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30292*]

Rail Carriers; Grand Trunk Western Railroad Co.—Discontinuance of Trackage Rights Exemption—In Saginaw County, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the discontinuance by the Grand Trunk Western Railroad Company of trackage rights over approximately 1.3 miles on the Chesapeake and Ohio Railway's Saginaw Improvement Spur in Saginaw County, MI, subject to conditions for protection of employees.

DATES: This exemption is effective October 19, 1983. Petitions to reopen must be filed by November 7, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30292 to:

(1) Office of Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) J. C. Danielson, Grand Trunk Rail System, 131 West LaFayette Blvd., Detroit, MI 48226

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call toll free (800) 424-5403.

Decided: October 12, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28414 Filed 10-18-83; 8:45 am]

BILLING CODE 7035-01-M

*Renumbered from Docket No. AB-31 (Sub-No. 12).

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 27, 1983, a proposed consent decree in *United States*, v. *International Paper Company*, Civil Action No. CV-83-2321, was lodged with the United States District Court for the Western District of Louisiana. The proposed consent decree provides for compliance with the Clean Water Act by International Paper's De Ridder, Louisiana wood treatment facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *International Paper Co.* D.J. Ref. 90-5-1-1-1952.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Louisiana 3B12 Federal Bldg., Shreveport, Louisiana and at the Region VI Office of the Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be

obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please refer to *United States* V. *International Paper Co.*, D.J. Ref. 90-5-1-1-1952.

F. Henry Habicht II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-28404 Filed 10-18-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (83-87)]

Privacy Act of 1974; Systems of Records

In accordance with 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974 (Pub. L. 93-579), the National Aeronautics and Space Administration hereby publishes the systems of records currently maintained by the agency.

October 6, 1983.

John W. Boyd,

Associate Administrator for Management.

BILLING CODE 7510-01-M

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NASA 10ACMQ

SYSTEM NAME:

Aircraft Crewmembers Qualifications and Performance Records - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Crewmembers of NASA aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains: (1) record of qualification, experience, and currency, e.g., flight hours (day, night, and instrument), types of approaches and landings, crew position, type aircraft, flight check ratings and related examination results, training performed and medical records; (2) flight itineraries and passenger manifests; and (3) biographical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for: evaluation of crewmember performance by supervisory flight operations personnel and staff; by the individuals whose records are maintained; and on occasion by flight operations and safety survey teams. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) In cases of accident investigations, access to this system of records may be granted to federal or local agencies such as Department of Defense, Federal Aviation Administration, National Transportation Safety Board, or foreign governments; (2) To other agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs; or to other agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) With prior approval by the individual - publicity or press releases; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, charts, punched cards, computer printouts.

RETRIEVABILITY:

Records are indexed by name or aircraft number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Transportation and Aircraft Branch, Location 1.

Subsystem Managers: Chief, Ames Aircraft Operations Division, Location 2; Chief, Dryden Aircraft Operations Division, Location 3; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Section, Location 6; Head, Aircraft Operations Branch, Location 7; Chief, Aircraft Operations Branch, Location 8; Chief, Aircraft Operations, Location 9; Chief Contract Management, Location 10; Data Acquisition Manager, Earth Resources Laboratory, Location 11; Head, Aeronautical Programs Branch, Location 4 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals, training schools or instructors, medical units or doctors.

NASA 10BRPA

SYSTEM NAME:

Biographical Records for Public Affairs - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in agency program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current biographical information about the individual with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or the individual's activity with NASA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is compiled, updated, and maintained at NASA installations for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving participation in a major NASA activity.

The data serves as background information about the individual and is used within NASA to prepare public appearance announcements of key officials, speaking engagements, special appointments, participation in professional societies, etc.; to write news stories about special achievements, awards, participation in major NASA activities, programs, etc.; and to prepare responses to inquiries submitted to the Public Affairs Division from the news media.

Users are the staff members of the public information office within each office of Public Affairs.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: these records are made available to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public in connection with NASA public affairs activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Since the records are a matter of public information, no safeguard requirements are necessary.

RETENTION AND DISPOSAL:

Records are maintained as long as there is potential public interest in them and are disposed of when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Management Services, Public Affairs Division, Location 1.

Subsystem Managers: The Public Affairs Officer at Locations 2, 3, 4, 5, 6, 7, 8, 9, and 11 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

An individual desiring to find out if a Biographical System of Records contains a record pertaining to him/her should call, write, or visit the Public Affairs office at the appropriate NASA location.

RECORD ACCESS PROCEDURES:

An individual may request access to his/her record by calling, writing, or visiting the Public Affairs office at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

CONTESTING RECORD PROCEDURES:

The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his/her biographical record to his/her own satisfaction.

RECORD SOURCE CATEGORIES:

Information in the biography of an individual in the system of records is provided volutarily by the individual generally with the aid of a form questionnaire.

NASA 10EEOR

SYSTEM NAME:

Equal Opportunity Records - NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complaints and (2) applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U. S. C. 2473; 44 U. S. C. 3101; Executive Order 11478, dated August 8, 1969; EEOC Regulations; 29 CFR Part 1613; MSPB Regulations; 5 CFR Parts 1200 - 1202; Equal Opportunity Act 1972, as amended (P.L. 92-261); Section 15 of the Age Discrimination in Employment Act of 1967, as amended (P.L. 93-259).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to process complaints of alleged discrimination, including investigations, hearings, and appeals; to maintain active discrimination complaints files; and to retain inactive discrimination complaints files.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Equal Employment Opportunity Commission and the Merit Systems Protection Board to facilitate their processing of discrimination complaints, including investigations, hearings and reviews on appeals; (2) Responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by any combination of name, birthdate, social

security number, ethnic groups, grades, topics, statistics.

SAFEGUARDS:

Records are located in locked metal file cabinets, or in metal file cabinets in secured rooms with access limited to those whose official duties require access and are locked during non duty hours.

RETENTION AND DISPOSAL:

Complaint case files for cases resolved within the agency, by EEOC, or by U.S. Court, are destroyed four years after resolution of the case. Other routine office records are reviewed periodically, and are retained or destroyed as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator for Equal Opportunity Programs, Location 1.

Subsystem managers: Director, Equal Opportunity Office at Location 1; Chief, Equal Opportunity Programs Office at Location 2; Head, Equal Opportunity Programs Office at Location 4; Chief, Equal Opportunity Programs Officer at Location 5; Director, Equal Opportunity Program Office at Location 6; Head, Office of Equal Opportunity Programs at Location 7; Chief, Office of Equal Employment Opportunity at Location 8; Director, Equal Opportunity Office at Location 9; Manager, Equal Employment Opportunity/Affirmative Action Programs at Location 10; Equal Opportunity Officer at Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Employees, applicants, installation EEO officers, complainants, EEO counselors, EEO investigators, EEOC complaints examiners, MSPB officials, complaints coordinators, Assistant Administrator for Equal Opportunity Programs.

NASA 10ERMS

SYSTEM NAME:

Executive Resources Management System - NASA

SYSTEM LOCATION:

Location 1, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Approximately 2,000 individuals with experience and education unique to the NASA mission in the technical and administrative fields who are considered to be candidates for key positions within NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data, education, training, work experience, career interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473, 44 U.S.C. 3101, 5 U.S.C. 4103; 5 U.S.C. 3396..

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the identification of replacement candidates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

The records are indexed by social security number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Development, Location 1.

Subsystem Managers: None.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager only.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other oranizations and individuals, and NASA personnel records.

NASA 10GMVP

SYSTEM NAME:

Government Motor Vehicle Operators Permit Records - NASA

SYSTEM LOCATION:

Locations 1 through 14 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA employees, contractor employees, other federal and state government employees. Location 8 does not maintain records on contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; Federal Personnel Management Manual, Chapter 930; Federal Property Management Regulations Subpart 101-39.601; NASA Management Instruction 6720.1A.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the purpose of identifying and checking record of applicant and issuing permits for operation of Government vehicles. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) National Driver Register, Department of Transportation, where Form 1047 is received for check and (2) Standard routine uses 1 through 4 inclusive, as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in a locked metal file cabinet with access limited to those whose official duties require access. Room is locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are maintained for a period of three years when permit expires or until permit holder leaves the Agency or requests cancellation. Records are destroyed when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Budget and Support Branch, Location 1.

Subsystem Managers: Chief, Security Branch, Location 2; Transportation Officer, Location 3; Chief, Logistics Management Division, Location 4; Chief, Transportation Branch, Location 5; Chief of Transportation, Location 6; Chief, Management Support Division, Location 7; Motor Vehicle Dispatcher, Location 8; Director, Logistics Office, Location 9; Chief Contract Management, Location 10; Chief Installation Operations, Location 11; Chief, Administration Office, Location 12; Chief, Maintenance and Administration Office, Location 13; Chief of Facilities, Location 14. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual NASA employees and individual contractor employees. Location 8 does not maintain records on contractor employees.

NASA 10HABC

SYSTEM NAME:

History Archives Biographical Collection-NASA

SYSTEM LOCATION:

Locations 1 and 5 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data; speeches and articles by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for researching and writing official histories and answering queries from various NASA offices. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: Disclosure to scholars (historians and other disciplines), or any other interested individuals for research and writing dissertations, articles, and books, for government, commercial and non-profit publication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in file folders.

RETRIEVABILITY:

The records are indexed by name.

SAFEGUARDS:

Because these records are archive material and therefore a matter of public information, there are no special safeguard procedures required.

RETENTION AND DISPOSAL:

Most biographical files are retained indefinitely, either in the archives or retired to the appropriate Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, History Office, Code LBH-14, Location 1.

Subsystems Managers: Historian, Code BE-4, Location 5 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Press releases, newspapers, journals, and the individuals themselves.

NASA 10HERD

SYSTEM NAME:

Human Experimental and Research Data Records - NASA

SYSTEM LOCATION:

Locations 2, 3, 5, 6, and 9, as stated in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; Civil Service employees, military, employees of other government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data obtained in the course of an experiment, test, or research medical data from inflight records; other information collected in connection with an experiment, test, or research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by NASA for the purposes of evaluating new analytical techniques, equipment, and re-examining flight data for alternative interpretations, developing applications of experimental techniques or equipment, reviewing and improving operational procedures with respect to experimental protocols (both inflight and ground), life support systems operating procedures, determining human engineering requirements, and carrying out other research.

In addition to the internal use of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; and (2) the standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders; on punch cards, magnetic tapes, or discs; on microfilm, microfiche, still photographs, or motion picture film; and on various medical recordings such as electrocardiographic tapes, stripcharts, and x-rays.

RETRIEVABILITY:

By name, experiment or test; arbitrary experimental subject number; flight designation; or crew member designation on a particular space or aeronautical flight.

SAFEGUARDS:

Access is limited to Government personnel requiring access in the discharge of their duties, and to appropriate support contractor employees on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations set forth in 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Astronaut records are retained indefinitely. Ground test and research data are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed, except that significant medical data will be handled in accordance with CSC regulations and NASA Control Schedule 11.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Occupational Health Office, Location 1.

Subsystem Managers: Research Assistant to the Director, Location 2; Director of Man/Systems Integration Division, Location 3; Assistant Director for Life Sciences, Space and Life Sciences Directorate, Location 5; Director, Biomedical Office, Location 6; Director, Management Services Office, Location 9. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the system or subsystem manager named above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Experimental test subjects, physicians; principal investigators and other researchers, and previous experimental test or research records.

NASA 10IGIC

SYSTEM NAME:

Inspector General Investigations Case Files - NASA

SYSTEM LOCATION:

National Aeronautics and Space Administration, Washington, DC 20546.

Subsystem Locations: Locations 2, 4, 5, 6, 7, 8, 9 and 10 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of NASA, contractors and sub-contractors, and others whose actions have affected NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government, (2) Theft of Government property, (3) Bribery, (4) Lost or stolen lunar samples, (5) Misuse of Government property, (6) Conflict of interest, (7) Waiver of claim for overpayment of pay, (8) Leaks of Source Evaluation Board information, (9) Improper personal conduct, (10) Irregularities in awarding contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 28 U.S.C. 535 (b); 5 U.S.C. App. I; 4 CFR Part 91; Executive Order 11478.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for: (1) Providing management with information which will serve as a possible basis for appropriate administrative action or the establishment of NASA policy; (2) Providing the Administrator of NASA (or the Comptroller General, as appropriate) sufficient information to provide a basis for decision concerning a request for waiver of claim in the case of an erroneous payment of pay.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Responding to the White House regarding matters inquired of; (2) Disclosure to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (3) Providing data to Federal intelligence elements; (4)

Providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) Providing personal identifying data to Federal, State, local or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (6) Disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action; (7) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored in file folders, index cards and on computer tapes and disks.

RETRIEVABILITY:

Information is retrieved by name of individual.

SAFEGUARDS:

Information is kept in locked metal file cabinets, and in secured vault and secured computer rooms. Access is limited to Inspector General personnel with a need-to-know.

RETENTION AND DISPOSAL:

Special interest case files are reviewed for destruction or further retention 10 years after case is closed and routine interest case files are destroyed 5 years after case is closed. Case is not closed until all judical and administration avenues and considerations have been finally exhausted. (Special interest files are those investigative files which the Assistant Inspector General for Investigations determines should be retained because of especially significant, sensitive, or historical content. All other files are routine interest files.)

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Location 1.

Subsystem Managers: Director, OIG Office at Ames Research Center, Location 2; Director, OIG Office at Goddard Space Flight Center, Location 4; Director, OIG Office at Lyndon B. Johnson Space Center, Location 5; Director, OIG Office of John F. Kennedy Space Center, Location 6; Director, OIG Office at Langley Research Center, Location 7; Director, OIG Office at Lewis Research Center, Location 8; Director, OIG Office at George C. Marshall Space Flight Center, Location 9; and Director, OIG Office at NASA Resident Office - JPL, Location 10.

NOTIFICATION PROCEDURE:

None. System is exempt. See below.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Exempt.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Inspector General Investigations Case Files system of records is exempt from all sections of the Privacy Act of 1974 (5 U.S.C. 552a), EXCEPT the following:

(b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A) through (F) relating to publishing an annual system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10) and (11) relating to agency requirements for maintaining systems; and (i) relating to criminal penalties.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212, for the reason that the Office of Inspector General, NASA, is a component of NASA which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10PAYS

SYSTEM NAME:

Payroll Systems - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former NASA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data contained in this system of records includes payroll, employee leave, insurance, labor and human resource distribution and overtime information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 et seq.; 5 U.S.C. 6301 et seq.; General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 6; Treasury Fiscal Requirements Manual, Part III; Federal Personnel Manual; and NASA Financial Management Manual, Sections 9300 and 9600.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for maintaining the payroll records and related areas.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) To report to the Office of Personnel Management (a) withholdings of premiums for life insurance, health benefits and retirement, and (b) separated employees subject to retirement; (4) To furnish the U. S. Treasury magnetic tape reports on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) To provide the Internal Revenue Service with detail of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) To furnish various financial institutions itemized listings of employee's pay and savings allotments transmitted to the institutions in accordance with employee requests; (7) To provide various Federal, state, and local taxing authorities itemized listing of withholdings for individual income taxes; (8) To respond to requests by State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) To report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) To furnish leave balances and activity to the Office of Personnel Management upon request; (11) To furnish data to labor organizations in accordance with negotiated agreements; (12) To furnish

pay data to the Department of State for certain NASA employees located outside the United States; and (13) Standard routine uses 1 through 4 inclusive as set forth in Apprndix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and microfilm.

RETRIEVABILITY:

Records are indexed by name and/or social security number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for audit by the General Accounting Office and are transferred to the National Personnel Records Center, St. Louis, Missouri, anywhere from one to three years. Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook - NHB 1441.1A.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Office of the Comptroller, Location 1.

Subsystem Managers: Chief, Financial Management Division, Locations 2, 4, 5, ,7 and 8; Financial Management Officer, Locations 3; Chief, Financial Management Office, Location 6; Director, Financial Management Office, Location 9; Chief, Resources and Financial Management Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, personnel office, and the individual's supervisor.

NASA 10SCCF

SYSTEM NAME:

Standards of Conduct Counselling Case Files - NASA.

SYSTEM LOCATION:

National Aeronautics and Space Administration, Washington, DC 20546.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, and prospective NASA employees, who have sought advice or have been counselled regarding conflict of interest requirements for government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C 3101; 18 U.S.C. 201, 203, 205, 207-209; 5 U.S.C. 7324-7327; Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the system of records is used within NASA for the purpose of counseling employees regarding conflict of interest problems. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Office of Personnel Management and Merit Systems Protection Board: for investigation of possible violations of standards of conduct which the agencies directly oversee; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are documentary and maintained in loose leaf binders or file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Restricted access to a few authorized persons; stored in combination lock safe.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for General Law, Code GG, NASA Headquarters, Washington, DC 20546.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA installation where employed.

CONTESTING RECORD PROCEDURES:

The NASA regulations and procedures for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Information collected directly from individual and from his official employment record.

NASA 10SECR

SYSTEM NAME:

Security Records System - NASA.

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11, 12, and 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, sources of information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Criminal Matter Records, Traffic Management Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Aeronautics and Space Act, P.L. 85-568; Espionage and Information Control Statutes, 18 U.S.C. 793 through 799; Sabotage Statutes, 18 U.S.C. 2151 through 2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202-208 and 3056; Internal Security Act of 1950, 5 U.S.C. 781 through 798; Atomic Energy Act of 1954, P.L. 703; Executive Order 12356, Classification and Declassification of National Security Information and Material; Executive Order 10865, Safeguarding Classified Information

Within Industry; Executive Order 10450, Security Requirements for Government Employees; P.L. 81-733; Executive Order 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies; Federal Property Management Regulation, 41 CFR Subpart 101-11; Federal Personnel Manual, Chapters 732 and 736; 14 CFR Part 1203a; 42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Personnel Security Records: The information contained in this category of records is used within NASA for the purpose of granting security clearances; for determining qualifications, suitability, and loyalty to the United States Government; for determining qualifications for access to classified information, security areas, and NASA installations, and for determining qualifications to travel to Communist controlled areas.

In addition to the internal uses of the information contained in this category of records, the following are routine uses outside of NASA: (1) To determine eligibility to perform classified visits to other Federal agencies and contractor facilities; (2) To provide data to Federal intelligence elements; (3) To provide data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (4) To provide a basis for determining preliminary visa eligibility; (5) To respond to White House inquiries; (6) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (7) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (8) Disclosure to a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Criminal Matter Records: The information contained in this category of records is used within NASA for providing management with information which will serve as a possible basis for administrative action. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Traffic Management Records: The information contained in this category of records is used within NASA to provide designated officials and employees with data concerning vehicle ownership, traffic accidents, violation of traffic laws, suspension of driving privileges, traffic control, vehicle parking, and car pools. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, punch cards, microfilm, and film.

RETRIEVABILITY:

Records are indexed by name, file number, organization, place of origin, badge number, decal number, date of event, space number, payroll number, and social security number.

SAFEGUARDS:

Access to Personnel Security Records is controlled by Government personnel exclusively. However, access to information extracted from personnel security records or information to be inserted into personnel security records is controlled by either government personnel or selected personnel of NASA contractor guard force or contractor personnel. Examples would be information required to prepare an identification badge and/or process a security clearance visitor request. Access to Criminal Matter Records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. After presenting proper identification and requesting a file or record, a person with a need-to-know and, if appropriate, a proper clearance may have access to a file or record only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment.

Traffic Management Records: Access to these records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. Access to these records is permitted after a determination has been made that the requestor has an official interest. These records are stored in locked containers.

RETENTION AND DISPOSAL:

Records, depending upon type, are retained from 6 months to 30 years before being destroyed. When current immediate need no longer exists, records are either transferred to the appropriate Federal Records Center or destroyed in accordance with records disposal instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Security Office, Location 1.

Subsystem Managers: Chief, Security Branch, Locations 2, 4, and 5; Security Officer, Location 3; Chief, Security Office, Location 6; Security Officer, Locations 7, 8, and 11; Chief, Security Division, Location 9; Security Officer at Location 12; Safety and Security Officer at Location 15. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: first, middle, and last name; date of birth; social security

number; period and place of employment with NASA, if applicable.

RECORD ACCESS PROCEDURES:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 522a (k) (5) from the access provisions of the Act.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a (k) (2) from the access provisions of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

For Personnel Security Records and Criminal Matters Records see Access, above. For Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

RECORD SOURCE CATEGORIES:

Personnel Security Records: Exempt

Criminal Matter Records: Exempt

Traffic Management Records: Employees, civil investigative agencies, civil law enforcement agencies, Federal and local judicial systems, medical records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to tne records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (5) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (2) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

Records subject to the provisions of 5 U.S.C. 552 (b) (1) (required by Executive order to be kept secret in the interest of national defense or foreign policy) are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552A (k) (1) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

NASA 10HIMS

SYSTEM NAME:

Health Information Management System - NASA.

SYSTEM LOCATION:

In Medical Clinics/Units and Environmental Health Offices at locations 1 through 15 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA Civil Service employees and applicants; other Agency civil service and military employees working at NASA; visitors to field installations; on-site contractor personnel who receive job related examinations, have mishaps or accidents, or come to clinic for emergency or first aid treatment; space flight personnel and their families.

CATEGORIES OF RECORDS IN THE SYSTEM:

General medical records of first aid, emergency treatment, examinations, exposures, and consultations.

Information resulting from physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; chemical, physical, and radiation exposure records; other environmental health data; alcohol/drug patient information; consultation records; and health hazard and abatement data.

Astronauts and their families - more detailed and complex physical examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; OMB Circular A-72; Pub. L. 92-255; Pub. L. 79-658.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical examinations; review by physicians in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts; exposure data for radiation/toxic exposure limits, compliance and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties; and for determining reliability pursuant to the Space Transportation System--Personnel Reliability Program (14 CFR Part 1214 Subpart 1214.5, NASA Management Instruction 8610.13).

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to OPM, OSHA and other Federal agencies as required in accordance with these special

program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Disclosure to the employer of non-NASA personnel, information affecting the reliability of such office or employee for purposes of the Space Transportation System, Personnel Reliability Program; (7) Disclosure to the public of a summary of flight crew information as it relates to mission impact, and limited to name, diagnosis, treatment, and prognosis; and (8) Standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders, punch cards, electrocardiographic tapes, x-rays, microfiche, and computer discs and tapes. They are handled between NASA installations by telecommunications.

RETRIEVABILITY:

By name, date of birth and social security number.

SAFEGUARDS:

Access limited to concerned medical environmental health personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

In accordance with Office of Personnel Management regulations and NASA Control Schedule II. Records on astronauts are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NASA Occupational Health Office, Location 1

Subsystem Managers: Medical Director or Medical Administrator or Safety and Health Coordinator at Locations 1 through 15 inclusive as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals, physicians and previous medical records of individuals.

NASA 10SPER

SYSTEM NAME:

Special Personnel Records - NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, life and health insurance, retirement, upward mobility, and work injury counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory appraisals under Competitive Placement Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of station; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement follow-ups; (8) Pre-employment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under agency as well as negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning deaths, retirement records, and other information pertaining to separated employees; (13)Special planning, analysis, and administrative information; (14) Performance appraisal records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files; (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records.

Agencywide and installation automated personnel information.

Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations.

All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish governmentwide Privacy Act Notices in the Federal Register.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by officials and employees within NASA for preview, planning, review and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of

records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

Records are indexed by any one or a combination of name, birthdate, social security number, or identification number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Programs Division, Location 1

Subsystem Managers: Director, Headquarters Personnel Division, and Personnel Officer, Office of Inspector General, Location 1; Director of Personnel, Locations 2, 3, 4, 5, 6, 7, 8, and 9; Chief, Personnel Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other organizations and individuals.

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals - NASA

SECURITY CLASSIFICATION:

Locations 6, 7, 8, and 9 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees of, and applicants for employment with, NASA Exchanges, Recreational Associations, and Employees' Clubs at NASA installations. Individuals with active loans or charge accounts at one or more of the several organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Exchange Employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, and all other employee records. Credit records on NASA employees with active accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for (1) maintaining exchange employees' payroll, leave, and other records; (2) determining pay adjustment eligibility; (3) determining Federal, State, and City tax withholdings; (4) determining leave eligibility; (5) determining person to notify in emergency; (6) certification of unemployment or injury claims; (7) determining eligibility for employment and promotion; and (8) determining credit standing.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions for insurance data with carriers and collection agents; (3) To provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) To respond to State employment compensation requests for wage and separation data on former employees; (5) To report previous job injuries to worker's compensation organizations; (6) For emergency notice to person designated by employee; (7) To report unemployment record to appropriate State and local authorities; (8) When requested, provide other employers with work record; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Exchange personnel records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

NASA Comptroller, Location 1.

Subsystem Managers: Chairperson, Exchange Council, Locations 6 and 7; Treasurer, NASA Exchange, Location 8;

Exchange Operations Manager, Location 9; Head, Administrative Management Branch, and Treasurer Wallops Exchange and Morale Association, Location 4. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant subsystem managers listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be directed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and the individual's supervisor.

NASA 22ORER

SYSTEM NAME:

LeRC Occupational Radiation Exposure Records - NASA.

SYSTEM LOCATION:

Locations 8 and 13, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former LeRC employees and contractor personnel who may be exposed to radiation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, Social Security Number, employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, 2201; 10 CFR Part 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to inform individuals of their radiation dosage.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Standard routine uses 1 through 4 inclusive as set forth in Appendix B and (2) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night.

Records are protected in accordance with the requirements and procedures which appear in the NASA rules section of the FEDERAL REGISTER.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Environmental Health, location 8.

Subsystem manager: Manager, Plum Brook Reactor Facility, Location 13. Locations are set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant System Manager or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 51RSCR

SYSTEM NAME:

GSFC Radiation Safety Committee Records - NASA

SYSTEM LOCATION:

Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, Maryland 20771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Radiation users and custodians under GSFC cognizance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; USNRC License and GHB 1860.1, 'Radiation Safety Handbook'; GHB 1860.2 'Radiation Safety Radio-Frequency'; GHB 1860.3 'Radiation Safety Laser'.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this sytem of records is used within NASA for review and approval of custodians and users of ionizing and non-ionizing radiation by the Radiation Safety Committee. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources; (2) Occupational Safety and Health Administration (Federal and State) may inspect records pursuant to fulfilling their responsibilities under the Occupational Safety and Health laws. (3) The Environmental Protection Agency may inspect records pursuant to fulfilling their responsibilities under the Environmental Protection laws and executive order; (4) The Food and Drug Administration may inspect records pursuant to fulfilling their responsibilities respecting use of lasers and x-rays; (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name only.

SAFEGUARDS:

Records are located in locked metal file cabinet in locked room with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are kept for two years. If employee does not wish to be renewed for position at the end of 2-year period, the record is removed and placed in inactive file.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Health, Safety, and Security Office; address same as shown for system location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the system manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Employees

NASA 53BHTR

SYSTEM NAME:

Wallops Flight Facility Base Housing Tenant Record - NASA.

SYSTEM LOCATION:

Wallops Flight Facility, National Aeronautics and Space Administration, Wallops Island, Virginia 23337

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants of Wallops Housing area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Housing Rental Agreements, records of rent receipts and records of dormitory occupants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for control of family housing and dormitory facilities. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) To furnish to a third party a verification of an employee's tenant status upon a written request of tenant; (2) To furnish verification of residency to various Federal, State, and local authorities; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and card files.

RETRIEVABILITY:

Records are indexed by name and/or room number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook, NHB 1441.1A.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Wallops Facilities Engineering Branch, Code 273 address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Tenants and dormitory occupants and Administrative Management records.

NASA 72XOPR

SYSTEM NAME:

JSC Exchange Activities Records - NASA.

SYSTEM LOCATION:

Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, Texas 77058.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and past employees of JSC Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

CATEGORIES OF RECORDS IN THE SYSTEM:

For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange-JSC. These records contain information about an individual relating to birth date; social security number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction-in-force; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains information supplied by individual center employees who have applied for an Exchange Scholarship for their son or daughter and includes, but is not limited to, education, financial transactions or holdings, employment history, medical data and other related information.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; NASA Management Instruction 9050.6; Treasury Fiscal Requirement Manual, Part III, Payroll Deductions and Withholdings; Federal Personnel Manual; JSCM 31712A, Exchange Activities Manual, dated May 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: (1) With respect to past or present employees of the JSC Exchange Operations, information in the system is used to: (a) pay employees and advise employees through Leave and Earnings Statements, (b) provide for promotion opportunities, disciplinary actions, staffing controls, budget requirements, employee fringe benefits, and other related personnel managerial purposes, and (c) submit

reports in accordance with legal or policy directives and regulations to center management and NASA Headquarters; (2) With respect to successful applicants under the JSC Scholarship Program, the information in the system is used to award scholarships to the sons and daughters of NASA-JSC employees; and (3) With respect to participants in the social or sports activities sponsored by the Exchange, the information maintained in the system is used to facilitate participation in such activities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) Provide information to insurance carriers with regard to worker's compensation, health and accident, and retirement insurance coverages; (3) Provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

For Exchange employees, records are maintained by name and filed as current or past employee. For Scholarship applicants, records are maintained by name. For participants in social or sports activities, records are maintained by name.

SAFEGUARDS:

Records are located in locked metal file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

For employees of JSC Exchange Operations, Personnel Records are retained indefinitely to satisfy payroll, reemployment, unemployment compensation, tax and employee retirement purposes.

For successful applicants under the JSC Exchange Scholarship Program, records are maintained until completion of awarded scholarship and then destroyed. Records pertaining to unsuccessful applicants are returned to them.

For participants in social or sports activities, records are maintained for a stated participation period, and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Exchange Operations, NASA Exchange - JSC, address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

For employees of the JSC Exchange Operations, information is obtained from the individual employee, the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Unemployment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees participating in social or sports activities sponsored by the Exchange, information is obtained from the individual participant.

NASA 73FHAP

SYSTEM NAME:

WSTF Federal Housing Administration (FHA) 809 Housing Program - NASA.

SYSTEM LOCATION:

JSC White Sands Test Facility, National Aeronautics and Space Administration, P. O. Drawer MM, Las Cruces, New Mexico 88001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

WSTF Civil Service and contractor personnel who have applied for FHA 809 housing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, WSTF, and FHA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and index cards.

RETRIEVABILITY:

Records are indexed by certificate number and person's name.

SAFEGUARDS:

Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administration Office, address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the

individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

NASA 76RTES

SYSTEM NAME:

KSC Radiation Training and Experience Summary - NASA

SYSTEM LOCATION:

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Custodians and/or users of sources radiation (ionizing and non-ionizing). Applicable to all users or custodians at KSC and NASA or NASA contractor personnel at Cape Canaveral Air Force Station, Florida, or Vandenberg Air Force Base, California.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals name and radiation related training and experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2111, 2201, 2232, 2233, 10 CFR Part 33 for Federal Licensee, and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine the suitability of individuals for specific assignments dealing with radiation and to preclude unnecessary exposure to self and others.

In addition to the internal uses of the information contained in this system of records, routine uses outside of NASA include: (1) Disclosure to Air Force Radiation Protection Officers at Eastern Space and Missile Center, Patrick Air Force Base, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using sources of radiation to facilitate protection of the individual and the public; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Duplicate copies of the records are maintained for Kennedy Space Center by EG & G Florida, Inc., Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or EG & G Florida, Inc., consist of 8 1/2 x 11 inch paper files.

RETRIEVABILITY:

Records are indexed by name, program/project title. Use authorization number and/or license number as applicable.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the applicable NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer; address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the system manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 76STCS

SYSTEM NAME:

KSC Shuttle Training Certification System (YC 04)

SYSTEM LOCATION:

John F. Kenndey Space Center Systems Training and Employee Development Branch, Kenndey Space Center, FL 32899

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC Civil Service, KSC contractor, and DOD personnel who have received systems, skills, or safety training in support of KSC or Space Shuttle Operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473, 44 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine training needs, and the operational readiness of the work force, to provide data for badging and access control to hazardous areas or critical operations, to determine the size of individual protective equipment and to identify personnel with needed skill combinations. In addition to the internal uses the information contained in this systems of records, the following are routine uses outside of NASA: (1) Disclosure is made of information on employees of KSC contractors to those contractor organizations and to EG & G Florida, Inc., to facilitate the performance of the contracts. EG & G Florida, Inc., compiles these training records for KSC; (2) Standard routine uses 1-4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained for KSC by EG & G Florida, Inc., on computer tape with printouts made periodically as required. Complete printouts are filed in the KSC Systems Training and Employee Development Branch, and the EG & G Florida, Inc., training office. Records containing raw data on course attendance and trainee statistics are maintained by EG & G Florida, Inc., for KSC.

RETRIEVABILITY:

Indexed by name, organization, and skill.

SAFEGUARDS:

These listings are automated systems, skills, and safety training records maintained under administrative control of responsible organizations in areas that are locked when not in use. Records are protected in accordance with the requirements and procedures which

appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Outdated records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Systems Training and Employee Development Branch, NASA Kennedy Space Center, FL 32899

NOTIFICATION PROCEDURE:

Individuals may obtain information from the Systems Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from class rosters, operational records, reports of physical examination completions and actions of certification boards.

NASA 76XRAD

SYSTEM NAME:

KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses - NASA.

SYSTEM LOCATION:

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC civil servants and KSC contractor personnel who have received radiation exposure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, and 2201; 10 CFR, Part 20 for Federal Licensee; and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to record exposure and to inform individuals of their approaching or exceeding radiation dose limits.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosure to Air Force Radiation Protection Offices at Eastern Space and Missile Center, Patrick Air Force Base, Florida and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices, to facilitate the protection of individuals; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Duplicate copies of the records are maintained for Kennedy Space Center by EG & G Florida, Inc., Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or EG & G Florida, Inc., consist of 8 1/2 x 11 inch paper files.

RETRIEVABILITY:

Records are indexed by name in personnel dosimetry files.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer; address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

APPENDIX A.

LOCATION NUMBERS AND MAILING ADDRESSES OF NASA INSTALLATIONS AT WHICH RECORDS ARE LOCATED.

Location 1.
National Aeronautics and Space Administration
Washington, DC 20546

Location 2
Ames Research Center
National Aeronautics and Space Administration
Moffett Field, CA 94035

Location 3
Hugh L. Dryden Flight Research Facility
National Aeronautics and Space Administration
P. O. Box 273
Edwards, CA 93523

Location 4
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, MD 20771

Location 5
Lyndon B. Johnson Space Center
National Aeronautics and Space Administration
Houston, TX 77058

Location 6
John F. Kennedy Space Center
National Aeronautics and Space Administration
Kennedy Space Center, FL 32899

Location 7
Langley Research Center
National Aeronautics and Space Administration
Langley Station
Hampton, VA 23665

Location 8
Lewis Research Center
National Aeronautics and Space Administration
21000 Brookpark Road
Cleveland, OH 44135

Location 9
George C. Marshall Space Flight Center
National Aeronautics and Space Administration
Marshall Space Flight Center, AL 35812

Location 10
NASA Resident Office-JPL
National Aeronautics and Space Administration
4800 Oak Grove Drive
Pasadena, CA 91103

Location 11
National Space Technology Laboratories
National Aeronautics and Space Administration
NSTL, MS 39529

Location 12
JSC White Sands Test Facility
National Aeronautics and Space Administration

P.O. Drawer MM
Las Cruces, NM 88001
Location 13
LeRC Plum Brook Station
National Aeronautics and Space Administration
Sandusky, OH 44870
Location 14
Michoud Assembly Facility
National Aeronautics and Space Administration
P.O. Box 29300
New Orleans, LA 70129

APPENDIX B

STANDARD ROUTINE USES - NASA

The following routine uses of information contained in systems of records subject to the Privacy Act of 1974 are standard for many NASA systems. They are cited by reference in the paragraph 'Routine uses of records maintained in the system, including categories of users and the purpose of such uses' of the FEDERAL REGISTER notice on those systems to which they apply.

Standard Routine Use No. 1 - LAW ENFORCEMENT - In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2 - DISCLOSURE WHEN REQUESTING INFORMATION - A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Standard Routine Use No. 3 - DISCLOSURE OF REQUESTED INFORMATION - A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4 - COURT PROCEEDINGS - In the event there is a pending court or formal administrative proceeding, any records which are relevant to the proceeding may be disclosed to the Department of Justice or other agency for purposes of representing the Government, or in the course of presenting evidence, or they may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

[FR Doc. 83-28507 Filed 10-18-83; 8:45 am]

BILLING CODE 7510-01-T

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Recommendations and Responses

Recommendations to:

Aviation—*Federal Aviation Administration: Oct. 12: A-83-67:* Issue and Airworthiness Directive applicable to all airplanes equipped with Donaldson dry paper carburetor air filters, requiring mandatory replacement of such filters at appropriate time or service intervals. *A-83-68:* Conduct and engineering evaluation of all general aviation carburetor air filter designs to determine whether mandatory replacement time or service intervals should be established. *A-83-69:* Emphasize on a recurrent basis in Advisory Circular 43-16, General Aviation Airworthiness Alerts, maintenance, operational, and inspection considerations relating to carburetor air induction system filets.

Marine—*Apex Marine Corporation: Oct. 12: M-83-66:* Require each officer assigned to an Apex Marine Corporation vessel to satisfactorily complete a formal training program which includes instruction in the operation and use of inert gas systems and crude oil washing systems and in the safety procedures to be followed when hot work is performed at sea. *M-83-67:* Amend Apex Marine Corporation's "Vessel Instruction Manual" to require that the master issue a "hot work permit" specifying the work to be conducted and the requirements necessary to maintain safe conditions when hot work is to be conducted at sea. *M-83-68:* Provide each Apex Marine Corporation vessel with at least one copy of the National Fire Protection Association Standard No. 306, "Standard for the Control of Gas Hazards on Vessels."

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses from:

Aviation—*Federal Aviation Administration: Oct. 4: A-81-15 and-16:* Is reconsidering recommendations concerning seats in Cessna aircraft to take into account the data of Cessna pilot seat slippage problems provided by a survey conducted by Consumer Usage Laboratories, Inc. *Oct. 7: A-83-58:* Plans to incorporate into its General Aviation Airworthiness Alert Advisory Circular 43-16 the recommendation that all owners and operators of airplanes with Hartzell [ ] HC-[ ][ ](X,V)[ ]-[ ] model propller assemblies be apprised of the circumstances of an accident involving Trans American Airways Piper Apache, PA-23-160, N4072P, at Chamblee, Georgia, on Jun. 14, 1982, and advising them to inspect all C-3 clamp assemblies, S/N K6336 and earlier, for cracks in the areas of the lubricator fitting threaded hole that is located 9/16 inch from the clamp parting line. *Oct. 7: A-83-50:* Is reviewing the recommendation to require the Piper Aircraft Corporation to revise the Piper PA-23 Aztec Flight Manual to indicate that if the parking brake is pulled and held extended during application of the toe brakes, hydraulic pressure to the wheel brakes can be blocked or restricted. *A-83-51:* Is reviewing the recommendation to review the braking systems of other models of Piper Aircraft Corporation airplanes to determine whether the simultaneous application of the toe brakes and the parking brake handle limits the wheel braking pressure which can be applied and where necesssary, require that the Airplane Flight Manuals be revised to include appropriate cautionary information. *Oct. 7: A-83-52:* Issued on Jul. 28, 1983, Airworthiness Directive 83-15-07 requiring the removal of Robinson R-22 main rotor blades, PN A016-1 Revision W, prior to further flight. *A-83-53:* Reviewed and evaluated the main rotor blade substantiation data for the Robinson R-22 main rotor blades Revisions Y and Z. Adequate margins of safety were determined, and the 2,000-hour service life was found to be conservative. *Oct. 7: A-79-12 and 13:* A recently completed reevaluation of the safety door chain problem in general aviation aircraft confirms that for small general aviation aircraft, unwanted inflight door openings occur much more often than post-crash situations where cabin door opening difficulties could adversely impact the safety of crash victims. To best serve safety in both cases, a well disigned door latching system is required. FAA has issued several inspection aids, etc., stressing the importance of propoer door latch maintenance. No clear-cut case exists to support Airworthiness Directive action to decrease or increase the number of safety chains installed in the present air taxi fleet. The evaluation does suggest that consideration be given to improving reliablity, ease of operation, and maintenance of door latching systmes in future designs. This will be considered in the forthcoming Federal Aviation Regulation Part 23 review. *A-79-14 and 15:* Has drafted a proposed Advisory Circular No. 23.807-XX, Emergency Exists Openable From Outside For Small, Airplanes, published in the **Federal Register** for public comment on Aug. 1, 1983. Is also

considering initiating a regulatory project to appropriately amend 14 CFR 135.169 and 14 CFR 135, Appendix A, regarding exit conspicuity and operability. *Oct. 11: A–83–56:* Is forming a special certification review team to review Mitsubishi MU–2 airplanes relative to the engines, fuel system, autopilot, and flight control systems; flight in known icing conditions; engine inoperative characteristics; and handling characteristics during IMC landing approaches.

Highway—*Missouri Highway and Transportation Commission: Oct. 6: H–79–21:* Provided skid-related accident data and skid test data after resurfacing for Route I–70 in St. Louis county. *H–79–23:* Missouri's wet pavement surface improvement policy has been accepted as adequate by the Federal Highway Administration.

State of New Jersey: Oct. 4: H–83–46 through –48: The recommendations concerning schoolbus inspection and repair, activity group use of mechanically unsafe buses, and placement of fire extinguishers on schoolbuses have been forwarded to appropriate departments.

State of Virginia: Sep. 30: H–83–39 through –41 and H–83–46 through –48: The recommendations concerning schoolbus restraint system, Federal Motor Vehicle Safety Standard applicable to small schoolbuses, driver seatbelt use, schoolbus inspection and repair, activity group use of mechanically unsafe buses, and placement of fire extinguishers on schoolbuses will be brought to the attention of the Superintendent of Public Instruction and the Commissioner of the Division of Motor Vehicles.

District of Columbia: Oct. 5: H–83–39 through –41 and H–83–46 through –48: The recommendations concerning schoolbus restraint systems, Federal Motor Vehicle Safety Standards applicable to small schoolbuses, driver seatbelt use, schoolbus inspection and repair, activity group use of mechnianically unsafe buses, and placement of fire extinguishers on schoolbuses have been forwarded to the Superintendent of Public Schools for appropriate action.

Marine—*Mobile Oil Canada, Ltd.: Sep. 23: M–83–34 and –35:* Has revised its offshore Contingency Plan to give more positive guidance and to clearly fix responsibility to follow the guidelines on Heavy Weather procedures and to give stronger guidance to the individuals involved under the Emergencies and Disasters Action Plan Code 3.

Note.—Single copies of these reponse letters are available on written request to: Public Inquires Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

October 14, 1983.

[FR Doc. 83-28402 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Class-9 Accidents; Cancellation of Meeting

The ACRS Subcommittee on Class-9 Accidents meeting scheduled for October 28, 1983, Room 1046 at 1717 H Street, NW, Washington, DC has been cancelled indefinitely. Notice of this meeting was published Friday, October 7, 1983 (48 FR 45861).

Dated: October 14, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-28505 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–270]

Duke Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–47, issued to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Unit No. 2 (the facility), located in Oconee County, South Carolina.

The amendment would authorize proposed changes to the Oconee Nuclear Station (ONS) common Technical Specifications which are required to support the operation of Oconee Unit 2 at full rated power during Cycle 7. The proposed changes to the core protection safety limits, the protective system maximum allowable setpoints, and the rod position limits are in accordance with the licensee's application for amendment dated September 1, 1983, as supplemented by correspondence dated September 14, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Example iii of the types of amendments not likely to involve significant hazards considerations applies in this case as the reload is for a nuclear power reactor. The licensee has provided an evaluation of the amendment requested against the standards of 10 CFR 50.92 to demonstrate the Commission's Example iii fits the case of this amendment request. The reload does not involve fuel assemblies significantly different from those found previously acceptable to the NRC. No significant changes are being made to the acceptance criteria for the Technical Specifications. The analytical method used to demonstrate conformance with Technical Specifications and regulations is not significantly changed, and the NRC has previously found the method acceptable. In this reload, out of a total of 177 fuel assemblies to be inserted into the core, only one assembly is slightly different. This Advanced Cladding Pathfinder (ACP) assembly, contained in the fresh batch assembly, Batch 9, is a reconstitutable design with 12 special advanced cladding rods. The ACP fuel rod design is identical to the standard MK–B design.

Six zirconium lined tubes and six beta quenched tubes will be used for 12 test rods. These tube modifications are expected to provide improved resistance to water-side corrosion and/or pellet-cladding interaction. The ACP assembly is designed to be reconstitutable to allow future removal of selected rods for examination. The assembly reconstitutable features are designed so that reactor safety and performance are not adversely affected. The Commission proposes to determine that the application does not involve a significant hazards consideration since it appears that the standards of 10 CFR 50.92 are met.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S.

Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 18, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to J. Michael McGarry III, De Bevoise and Liberman, 1200—17th Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)—(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Dated at Bethesda, Maryland, this 12th day of October 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-28500 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3 (Emergency Planning Proceeding)]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Order Scheduling Conference of Counsel

October 13, 1983.

A Conference of Counsel in this proceeding is scheduled for Wednesday, November 9, 1983 commencing at 9:30 a.m. at the NRC Hearing Room, 4350 East-West Highway, Fifth Floor, Bethesda, Maryland 20014.

It is ordered that:

1. On or before November 2, 1983, each party shall file a report which includes the following:

a. Stipulations;

b. complete list of all exhibits and other documentary evidence expected to be offered;

c. complete list of all witnesses expected to testify and the contentions on which they will testify;

d. estimated length of time to present case;

e. status of settlement with recommended areas of further discussion;

f. stipulation or recommendation concerning the order or sequence of contentions at hearing; and

g. recommendtion of additional topics to be discussed at Conference of Counsel.

2. Attorneys in attendance must have full authority to stipulate for their clients or such clients must attend the Conference.

3. Attorneys appearing at the Conference of Counsel will be those who will try the case.

Atomic Safety and Licensing Board.

James A. Laurenson,

Chairman, Administrative Law Judge.

Bethesda, Maryland.

[FR Doc. 83-28501 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 OL 50-323 OL (Reopened Proceeding-Design Quality Assurance)]

Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Order Rescheduling Hearing

Notice is hereby given that, in accordance with the Appeal Board's order of October 7, 1983, hearing on the issues set forth in its August 26 and October 7 orders shall *now* commence at *9:00 a.m. on Monday, October 31, 1983, at the San Luis Bay Inn, Bay View Room, Avila Beach, California, i.e.,* seven days later than previously scheduled.

It is so ordered.

Dated: October 13, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-28502 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

Issuance and Availability; NUREG-0577, Rev. 1 "Potential for Low Fracture Toughness and Lamellar Tearing in PWR Steam Generator and Reactor Coolant Pump Supports"

The U.S. Nuclear Regulatory Commission (NRC) staff has prepared NUREG-0577, Rev. 1 entitled, "Potential for Low Fracture Toughness and Lamellar Tearing in PWR Steam Generator and Reactor Coolant Pump Supports." This NUREG Revision serves as the staff's resolution of the NRC's Task A-12, "Fracture Toughness and Potential for Lamellar Tearing of Steam Generator and Reactor Coolant Pump Supports." This issue was identified as an "Unresolved Safety Issue" in the 1978 Annual Report, pursuant to Section 210 of the Energy Reorganization Act of 1974.

The NUREG report describes the technical issues that arose during a licensing review of North Anna Units 1 and 2; a generic technical study performed by Sandia National Laboratory; the staff's technical findings based on these studies; and a tentative plan for plant-specific reviews to implement the technical problem resolution. The scope of the review is defined and methods and acceptance criteria are given for demonstrating adequate fracture toughness.

Comments were solicited from interested organizations, groups and individuals. The staff has evaluated the comments received, and addressed them, as appropriate, in the final documents.

Copies of the documents will be available after October 28, 1983. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Dated at Bethesda, Maryland, this 11th day of October, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-28503 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

Issuance and Availability; "For Comment"; Standard Review Plan Section 5.3.4, "Fracture Toughness of Steam Generator and Reactor Coolant Pump Supports" (NUREG-0800)

The U.S. Nuclear Regulatory Commission (NRC) staff has prepared a new proposed Standard Review Plan (SRP) Section 5.3.4, "Fracture Toughness of Steam Generator and Reactor Coolant Pump Supports" (NUREG-0800). The supporting Value/Impact Analysis is included as a part of the proposed new SRP Section.

This SRP Section serves as the staff's implementation of the resolution of NRC's Task A-12, "Fracture Toughness and Potential for Lamellar Tearing of Steam Generator and Reactor Coolant Pump Supports." This issue was identified as an "Unresolved Safety Issue" in the 1978 Annual Report, pursuant to Section 210 of the Energy Reorganization Act of 1974.

Comments are being solicited from interested organizations, groups and individuals. The staff will evaluate the comments received, and address them, as appropriate, in the final SRP Section.

Copies of the "For Comment" SRP Section will be available after October 28, 1983. Copies will be sent directly to utilities, utility industry groups and associations and evironmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Comments should be forwarded in writing to Mr. Karl Kniel, Division of Safety Technology, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by December 15, 1983.

Dated at Bethesda, Maryland, this 11th day of October, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-28504 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Acid Rain Peer Review Panel Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 77), notice is hereby given of the following meeting:

Name: Acid Rain Peer Review Panel.

Date, time and location: October 28, 1983, 9:00 a.m.-3:00 p.m., Highland Room, Hotel Thayer, U.S. Military Academy, West Point, New York 10996.

Type of meeting: Open.

Proposed Agenda

(1) Discussion of Draft Report.

(2) Discussion of Public reaction to Interim Report.

(3) Discussion of Research Recommendations.

Public Participation

The entire meeting is open to the public. Due to limited meeting room capacity, individuals wishing to attend should contact Mrs. Shirley Bonsell at (914) 938-3739, prior to 3:00 p.m. on October 27, 1983.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

October 17, 1983.

[FR Doc. 83-28672 Filed 10-18-83; 11:05 am]

BILLING CODE 3170-01-M

POSTAL RATE COMMISSION

[Order No. 527; Docket No. A83-30]

Knob Fork, West Virginia 26579 (Donald R. Rankin, Petitioner), Notice and Order Accepting Appeal and Establishing Procedureal Schedule

Issued: October 12, 1983.

Before Commissioners: Janet D. Steiger, Chairman; John W. Crutcher, Vice-Chairman; Simeon M. Bright; James H. Duffy; and Henry R. Folsom.

Docket No.: A83-30.

Name of Affected Post Office: Knob Fork, West Virginia 26579 (Community Post Office).

Name(s) of Petitioner(s): Donald R. Rankin.

Type of Determination: Discontinuance of community post office.

Date of Filing of Appeal Papers: September 30, 1983.

Categories of Issues Apparently Raised:

Whether opportunity to be heard or other procedural steps, to which petitioner claims entitlement under 39 U.S.C. 404(b), were improperly omitted.

Effect on adequacy of postal services of the discontinuance of the facility [39 U.S.C. 404(b)(2)(C)].

Effect on the community of the discontinuance of the facility, including specifically the effect on employees and patrons of the store in conjuction which it is operated [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

The Secretary shall publish this Notice and Order and Procedure Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

September 30, 1983: Filing of Petition.

October 12, 1983: Notice and Order of filing of Appeal.

October 25, 1983: Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

November 4, 1983: Petitioner's Particpant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].

November 25, 1983: Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].

December 12, 1983: (1) Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR 3001.115(d)].

December 19, 1983: (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument. [*see* 39 CFR 3001.116].

January 18, 1984: Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 83-29445 Filed 10-18-83; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-20270; File No. SR-MSTC-83-16]

Self-Regulatory Organizations; Proposed Rule Change Midwest Securities Trust Co.; System for the Deposit and Withdrawal of Bearer Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 6, 1983, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Exhibit A, located in File No. SR-MSTC-83-16, consists of the procedures which will expand the services provided by the Midwest Securities Trust Company's system for the deposit and withdrawal of bearer securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to introduce the depository satellite function for the MSTC bearer municipal bond system. A depository satellite acts on behalf of MSTC in accepting and processing participant deposits of bearer securities, as well as providing physical certificates to fill participants' withdrawal request. The depository satellites will be located regionally to accommodate participants in their area. Custodians will continue to function on behalf of MSTC in holding bearer certificates for safekeeping, as well as providing interest and maturity processing.

The interaction of the Custodian and Depository Satellite functions will be handled by MSTC's Transit Accounting System. The System has been designed to provide an accurate tracking mechanism for bearer securities and to assure the timely movement of physical securities.

The proposed rule change also sets forth specfic procedures for the delivery and withdrawal of bearer securities which will ensure the physical control of the bearer certificates.

The procedures used to calculate the finance and interest changes debited and credited to participants' accounts are also included as part of the proposed rule change. On payable date, MSTC will atomatically credit each participant with the interest or maturity monies due for each security issue. This credit will be made in Clearing House funds for bonds and in Federal Funds for notes. However, a portion of the interest paid to participants may not have been

collected by custodians from the paying agent(s). MSTC will, therefore, charge each participant a daily finance fee based on the custodian's uncollected balance for each security issue for each day the funds remain uncollected. This finance fee will be charged to participants on the day all interest or maturity funds were collected by the custodian from the paying agent.

Finally, the proposed rule change sets forth the schedule for report retrieval availability. This schedule has been slightly modified to accommodate the implementation of the Transit Accounting System and numerous other enhancements that have increased the volume of information being processed.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, in that it will facilitate the prompt and accurate clearance and settlement of securities transactions and safeguard securities and funds in MSTC's custody or control or for which it is responsible.

The Commission understands that MSTC will file a related rule change that would authorize MSTC, in the event of nonpayment by the paying agent, to reverse the credit made to each participant's account to the extent of the interest and maturity monies advanced to the participant by the custodian bank.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th St., NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th St., NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 11, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28428 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20273; File No. SR-NASD-83-17]

Self-Regulatory Organizations; Proposed Rule Change; National Association of Securities Dealers, Inc.; Conversion of SECO Broker/Dealers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 14, 1983, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The National Association of Securities Dealers, Inc. is filing herewith as a stated policy, practice or interpretation, a description of the program being undertaken by the Association to convert SECO broker/dealers to NASD membership pursuant to the mandate of Public Law 98–38.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the conversion program is to efficiently manage the transition from SECO to NASD membership mandated under the terms of Pub. L. 98–38 which requires membership in a registered securities association. The statutory basis for the program is also Pub. L. 98–38 as it amends Section 15(b)(8) of the Securities Exchange Act of 1934.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Conversion from SECO to NASD membership is mandated by statute and the program of conversion imposes no burden on competition over and above any resulting from the statutory directive itself.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received in connection with the implementation of the conversion program.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to a request for accelerated effectiveness as provided for under Section 19(b)(2) of the Securities Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450—5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all writtern communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450—5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within (21) days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 12, 1983

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28433 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20271; File No. 57-787]

Approval of Amendments to the Plan for the Designation of National Market System Securities; Submitted by the National Association of Securities Dealers, Inc.

October 12, 1983.

I. Background and Description of Amendments

On May 10, 1983, and July 7, 1983, the National Association of Securities Dealers, Inc. ("NASD") filed with the Commission pursuant to Rule 11Aa2-1 under the Securities Exchange Act of 1934 ("Act")[1] proposed amendments to its "National Market System Securities Designation Plan with respect to NASDAQ Securities" ("Designation Plan").[2]

The amendment filed on May 10, 1983 ("May Amendment") reduced the number of securities that could become designated as NMS Securities pursuant to the Tier 2 criteria from 100 securities per month to 50 securities.[3] Viewing the amendment as a reasonable method of minimizing reporting burdens in light of recent high trading volume, while still permitting the NASD to phase-in new NMS designations, on May 20, 1983, the Commission granted the amendment summary effectiveness for a period not exceeding 120 days from publication of notice of the amendment, and solicited comment on whether to approve permanently the amendment.[4]

The amendment filed on July 7, 1983 ("July Amendment") permitted a security, which formerly was eligible for reporting in the consolidated transaction reporting system[5] and which met the Tier 2 designation criteria at the time of its application, to be designated as an NMS Security immediately upon its application. Viewing the July Amendment as a reasonable and desirable adjustment to the Designation Plan that ensured continuity in last sale reporting when securities eligible for NMS designation transferred between exchange and OTC markets, on July 11, 1983, the Commission granted the amendment summary effectiveness for a period not exceeding 120 days from publication on notice of the amendment, and solicited comment on whether to approve the amendment.[6]

II. Approval of Amendments

The Commission received no response to its solicitation of comments. In regard to the May Amendment, the Commission remains cognizant of the concerns expressed by some members of the OTC trading community that the designation of a large number of securities at one time, especially in times of high volume, could affect adversely the OTC market. In this respect, the Commission continues to view the May Amendment as a reasonable method of minimizing reporting burdens in light of the recent high trading volume, while still permitting the NASD to proceed in phasing-in new NMS designations.

In regard to the July Amendment, the Commission continues to view the amendment as a reasonable and desirable adjustment to the Designation Plan, ensuring minimal disruption in last sale reporting as securities eligible for NMS designation transfer between exchange and OTC markets.

In light of the above, the Commission finds that approval of both Amendments are necessary in the public interest, for the protection of investors or the maintenace of fair and orderly markets, and to remove impediments to, and perfect the mechanism of, a national market system or otherwise in furtherance of the purposes of the Act.

III. Conclusion

In accordance with the above, it is ordered, pursuant to Section 11A of the Act, and paragraph (d)(4) of Rule 11Aa2-1 thereunder, that the NASD's amendments to the Designation Plan be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28435 Filed 10-18-83; 8:45 am]

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[1] 17 CFR 240.11Aa2-1 ("Rule"). Pursuant to the Rule, certain actively-traded over-the-counter ("OTC") securities have been or will be designated as National Market System ("NMS") Securities. Upon designation, an NMS Security is deemed a "reported" security, as that term is defined in Rule 11Ac1-1(a)(6) under the Act, and becomes subject to, among other things, the Commission's last sale reporting rule, Rule 11Aa3-1 under the Act.

The Rule employs a two-tiered approach to determine which OTC securities are designated as NMS Securities. In this repect, Tier 1, which became effective on April 1, 1982, automatically requires that the most actively traded OTC securities be designated as NMS Securities. In addition, Tier 2, which became effective on February 8, 1983, permits issuers of less actively traded OTC securities to become NMS designated if the issuers so elect. For further information concerning the Rule, *see* Securities Exchange Act Release No. 17549 (February 17, 1981), 46 FR 13992, and Securities Exchange Act Release No. 18397 (January 7, 1982), 45 FR 2079.

[2] The Commission approved the NASD's Designation Plan on January 7, 1982. Securities Exchange Act Release No. 18399 (January 7, 1982), 47 FR 2226. Generally, the Designation Plan provides: (1) Procedures for the designation of NMS Securities; (2) procedures for determining substantial compliance with the Tier 2 criteria established in the Rule; (3) procedures and criteria for terminating or suspending the NMS status of securities; and (4) procedures for publishing lists of NMS Securities.

[3] The phase-in feature of the Designation Plan was included in the Plan as a method of minimizing administrative burdens in connection with the potential designation of a large number of securities pursuant to the Tier 2 designation criteria. *See* Securities Exchange Act Release No. 19286 (December 1, 1982), 47 FR 55357.

[4] *See* Securities Exchange Act Release No. 19797 (May 20, 1983), 48 FR 24823.

[5] The consolidated transaction reporting system, administered on behalf of a number of self-regulatory organizations (including the NASD) by the Consolidated Tape Association, disseminates transaction reports and last sale data from various markets on a consolidated basis in certain listed securities. These securities include, generally, stocks and long-term warrants traded on the American and New York Stock Exchanges on April 30, 1976, and stock and long-term warrants traded on an exchange thereafter that substantially meet American or New York Stock Exchange standards for original listing.

[6] *See* Securities Exchange Act Release No. 19953 (July 11, 1983), 48 FR 32902.

[7] 17 CFR 200.30-3(a)(37).

[Release No. 20277; File No. SR-NYSE-83-33]

Filing and Immediate Effectiveness of Amendment to Proposed Rule Change by New York Stock Exchange, Inc.

October 13, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on October 7, 1983, the New York Stock Exchange, Inc. ("NYSE") files with the Securities and Exchange Commission and amendment to a proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

On August 19, 1983, the NYSE filed with the Commission a proposed rule change (SR-NYSE-83-33) to permit the Exchange to charge its members for regulatory oversight service based on the member's or member organization's gross revenues.[1] The proposed rule change provided that NYSE Rule 129 (relating to charges for regulatory oversight services) would terminate on October 15, 1983, and all charge imposed thereunder would be refunded unless, prior to that date, the Commission approves the first sentence of Rule 129 and the charges to be imposed thereunder pursuant to section 19(b)(2) of the Act. In the instant filing, the NYSE has amended the sunset provision of Rule 129 by extending in from October 15 to Octoer 31, 1983.[2] The NYSE states that regulatory oversight fee is imposed pursuant to the authority of the NYSE Board of Directors under Article X, Section 3 of the Exchange Constitution, which authorized the Board, by rule, to impose service fees. The NYSE states further that the statutory basis for the proposed rule change is Section 6(b)(1), 6(b)(4), and 6(b)(5) of the Act.[3]

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) or Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comment should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington D.C. 20549. Reference should be made to File No. SR-NYSE-83-33.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28424 Filed 10-18-83 8:45 am]

BILLING CODE 8010-01-M

[1] Notice of the filing was provided by issuance of a Commision Commission release (Securities Exchange act Release No. 20106, August 23, 1983) and publication in the **Federal Register** (48 FR 38555, August 31, 1983). The proposed rule change provides for an annual regulatory fee of $0.13 per $1,000 of gross revenues as reported by each member firm in its FOCUS report, and would permit the NYSE to impose minimum annual fees of $2,000 for carrying firms and specialists, $1,000 for introducing firms, and $180 for members and firms not dealing with the public.

[2] The NYSE also filed on August 19, 1983 a proposed rule change (SR-NYSE-83-34) to amend NYSE Rule 129 by deleting its termination and refund provisions, thereby permitting the NYSE, on a permanent basis, to charge its members for regulatory oversight services on the basis of their gross revenues. (Securities Exchange Act Release No. 20107 August 23, 1983; 48 FR 38553, August 31, 1983). October 7, 1983, the NYSE filed and amendment to SR-NYSE-34, parallel to the instant amendment, changing the termination date in Rule 129 from October 15 to October 31, 1983.

[3] *See* 48 FR 39555 (August 31, 1983) for the NYSE's statement of the terms of substance, purpose, and statutory basis of the proposed rule change.

[Release No. 13576; 812-5649]

American Telecommunications Trust; Application

October 13, 1983.

Notice is hereby given that American Telecommunications Trust ("Applicant" or the "Trust"), One Boston Place, Boston, Massachusetts, 02106, registered under the Investment Company Act of 1940 ("Act"), as an open-end, non-diversified management investment company, filed an application on September 16, 1983, requesting an order pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the assessment, under certain circumstances, of a contingent deferred sales charge on certain redemptions of the shares to be issued by Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicant states that it was organized as a business trust under Massachusetts law on June 2, 1983. Shearson/American Express Inc. ("Shearson"), a Delaware corporation, will serve as Dealer-Manager of Applicant's exchange offer, as described below, and as principal underwriter of its shares, and will receive the proceeds of the contingent deferred sales charge.

In connection with the proposed offering Applicant will offer only stockholders of American Telephone and Telegraph Company ("AT&T") the opportunity to make a tax-free exchange of their shares of AT&T Common stock for Trust shares on a share-for-share basis (the "Exchange Offer"). The Trust is comprised of two portfolios: the "Income Portfolio" and the "Growth Portfolio". AT&T stockholders may exchange their shares for shares of either or both portfolios of the Trust. Applicant may offer additional series or classes of shares in the future. Such offering may not involve an exchange offer but, rather, may involve the sale of shares for cash. Therefore, Applicant intends that its application constitute a request that in addition to the two original series, any additional series or classes of shares that may at any time hereafter be offered on substantially the same basis be similarly exempted from the provisions of the sections of the Act enumerated above.

Applicant proposes to offer its shares without an initial sales charge so that investors will have the entire amount of their purchase payments fully invested when made. However, Applicant also proposes to pay Shearson a contingent deferred sales charge from the proceeds of certain redemptions of Applicant's shares.

Applicant represents that if an investor redeems his shares during the first three years following the Exchange

Date, a contingent deferred sales charge equal to three percent of the value of the shares received at the Exchange Date or the net asset value of the shares being redeemed, whichever is less, would be imposed. No contingent sales charge will be imposed where the net asset value of the shares redeemed does not exceed (i) the current net asset value of shares purchased through reinvestment of dividends or capital gains distributions, plus (ii) increases in the net asset value of the investor's shares above the total value of the shares received at the Exchange Date. In addition, shareholders of either Portfolio may exchange their shares for shares of the other Portfolio for a nominal charge per exchange but without incurring the contingent deferred sales charge.

Applicant believes that the imposition of the contingent deferred sales charge is fair and is in the best interests of its shareholders. Applicant asserts that the proposed sales load structure permits shareholders to have the advantage of greater investment dollars working for them from the time of their exchange of AT&T shares for shares of the Trust. Moreover, Applicant contends that because the contingent deferred sales charge applies only to redemptions of amounts representing the initial value of the Trust shares received on the Exchange Date, and then only for the first three years after the Exchange Date, it does not apply to increases in the value of an investor's account through appreciation in net asset value per share, or to amounts representing reinvestment of distributions.

Applicant believes that where amounts attributable to the initial value of the Trust shares received on the Exchange Date are redeemed, it is fair to impose on the withdrawing shareholder a lump sum payment to compensate Shearson for its sales efforts and distribution expenses incurred in connection with the Exchange Offer. Applicant asserts that the amount and timing of the contingent deferred sales charge are designed to promote fair treatment of all shareholders while permitting the Trust to offer investors the advantages of having the value of the shares received on the Exchange Date fully invested on their behalf immediately.

Applicant submits that the imposition of the contingent deferred sales charge in the manner described above would not cause Applicant's shares to fall outside the definition of "redeemable securit[ies]" in Section 2(a)(32) of the Act, and Applicant believes, therefore, that it qualifies as an open-end company under Section 5(a)(1) of the Act.

Applicant further believes that imposition of the contingent deferred sales charge in no way restricts a shareholder from receiving his proportionate share of the current net assets of Applicant, but merely defers the deduction of a sales charge and makes it contingent upon an event which may never occur. Nonetheless, Applicant requests an exemption from the operation of Section 2(a)(32) of the Act to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

Applicant asserts that the proposed contingent deferred sales charge is consistent with the intent of the Act's definition of "sales load" in Section 2(a)(35). The contingent deferred sales charge is paid to the distributor to compensate it solely for expenses related to offering Applicant's shares for sale to the public pursuant to the Exchange Offer, and, therefore, Applicant submits that this arrangement is within the Section 2(a)(35) definition of sales load but for the timing of the imposition of the charge. Applicant contends that the deferral of the sales charge, and its contingency upon the occurrence of an event that might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. However, Applicant requests an exemption from the provisions of Section 2(a)(35), to the extent necessary to implement the proposed charge.

Applicant further asserts that the implementation of the proposed contingent deferred sales charge would not violate Section 22(c) of the Act or Rule 22c-1 thereunder. When a redemption of Trust shares is effected the price of the shares will be based on current net asset value. The contingent deferred sales charge will merely be deducted at the time of redemption. However, in order to avoid any possiblility that questions might be raised as to the potential applicability of Section 22(c) and Rule 22c-1, Applicant requests an exemption from the operation of the provisions of Rule 22c-1 to the extent necessary to permit Applicant to implement the proposed contingent deferred sales charge.

Notice is further given that any interested person wishing to request a hearing on the aplication may, not later than November 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail 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 ot delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28425 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6553]

Carrols Corp.; Application To Withdraw From Listing and Registration

October 13, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Carrols Corporation ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on September 16, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before November 3, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the

protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28421 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23087; 70-6849]

Central and South West Corp.; Supplemental Notice of Proposed Issuance and Sale of Common Stock

October 13, 1983.

Central and South West Corporation ("CSW"), 2400 San Jacinto Tower, Dallas, Texas 75222, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

By order dated August 10, 1983 (HCAR No. 23030), CSW was authorized to issue and sell up to 2 million shares of its common stock ("Additional Shares") pursuant to a Sales Agency Agreement ("Agreement") with Goldman, Sachs & Co. ("Agent"). Jurisdiction was reserved with respect to the proposed issuance and sale of 8 million more shares of common stock. CSW now proposes to issue and sell up to another 2 million shares under the Agreement in one or more transactions through December 31, 1984, following the same procedures as heretofore authorized. The new proceeds from the sale of the stock will be used to retire short-term debt incurred to finance capital contributions to CSW's wholly owned subsidiaries.

The declaration, as now amended and as it may be further amended, is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporated Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28422 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23088; 70-6826]

The Columbia Gas System, Inc. et al.; Proposed Intrasystem Financing

October 13, 1983.

In the Matter of the Columbia Gas System, Inc., Columbia Gas System Service Corporation, Columbia LNG Corporation, Columbia Alaskan Gas Transmission Corporation, 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314; Columbia Gas of Kentucky, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., 200 Civic Center Drive, Columbus, Ohio 43215; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Gas Development of Canada Ltd., 639 5th Avenue, SW., Calgary, Alberta, Canada T2P OM9; Columbia Gas Development Corporation, 1700 West Loop, South, Houston, Texas 77027; Commonwealth Gas Pipeline Corporation, Commonwealth Gas Services, Inc., Commonwealth Propane, Inc., 200 South Third Street, Richmond, Virginia 23219; Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., Columbia Coal Gasification Corporation, 340 17th Street, Ashland, Kentucky 41101.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary companies named above have filed with this Commission a further post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 6(b), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

By orders in this proceeding dated December 29, 1982, January 26, 1983, March 24, 1983, April 27, 1983, and July 28, 1983 (HCAR Nos. 22807, 22836, 22889, 22922, and 23012), Columbia and some of its wholly owned subsidiary companies were, among other things, authorized to engage in certain intrasystem financing. Jurisdiction was reserved over those transactions as to which the record was not complete.

Authorization was granted for $700,000 of long-term financing for The Inland Gas Company, Inc. ("Inland") which has been accomplished through the issuance and sale by Inland to Columbia of $200,000 of common stock and $500,000 of installment promissory notes. Columbia was also authorized to make up to $2 million of open account advances for Inland's short-term requirements. It is stated that Inland is experiencing a significant revenue deline. Accordingly, it is now proposed that up to $1 million of additional long-term financing in the form of equity capital contributions and up to $1.6 million of additional short-term financing (in the form of open account advances) be provided to Inland by Columbia during the balance of 1983.

Authorization was also granted for $6.7 million of long-term financing for Columbia Gas of West Virginia, Inc. ("Columbia of West Virginia") which has been accomplished through the issuance and sale by Columbia of West Virginia to Columbia of $6.7 million of installment promissory notes to evidence long-term borrowings up to that amount. Columbia was also authorized to make up to $75 million of open account advances for Columbia of West Virginia's short-term requirements. It is stated that Columbia of West Virginia continues to be unable to obtain approval from its state regulatory commission of sufficient rates to cover the cost of serving its customers and that losses for the twenty-four months ended December 31, 1983, are estimated to aggregate about $15.3 million. Accordingly, it is now proposed that up to $15 million of equity capital contributions be made by Columbia to Columbia of West Virginia from time to time until June 30, 1984, to compensate for the deterioration in the subsidiary's capital base. Authorization of an additional $10 million of long-term financing, in the form of up to $5 million of equity capital contributions and up to $5 million of long-term debt (evidenced by installment notes), is also requested to provide financing flexibility to Columbia of West Virginia.

Finally, Columbia and Columbia Gas Development Corporation ("Columbia Development") seek approval to recapitalize Columbia Development from a 79 percent equity-weighted capital structure to one more closely

resembling that of the system on a consolidated basis (approximately 50 percent). To that end, Columbia Development proposes to issue and sell to Columbia (and Columbia proposes to acquire from Columbia Development) up to $97.5 million of installment promissory notes (having a final maturity of 15 years and annual principal repayments in each of the years 1985–1999) in exchange for up to 6.5 million shares of Columbia Development's common stock currently held by Columbia at the par value of $15 per share to aggregate up to a total of $97.5 million. The installment notes will bear interest at 9 percent per annum.

The amended application-declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28423 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23086; 70-6306]

Consolidated Natural Gas Co.; Proposed Extension of Period to Issue Common Stock

October 13, 1983.

Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, a registered holding company, has filed with this Commission a further post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a), 7, and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50(a)(5) promulgated thereunder.

By prior orders in this proceeding dated June 4, 1979, and February 12, 1982 (HCAR Nos. 21089 and 22388), Consolidated was authorized to issue and sell 1 million shares of common stock, $8 par value, from time to time through December 31, 1983, to the agent for Consolidated's common stockholders participating in its dividend reinvestment plan ("DRP") and to the trustees of the employee stock ownership plan ("ESOP") of Consolidated and its participating subsidiaries. Following a two-for-one stock split, the remaining common stock authorized to be issued was increased from 780,153 to 1,560,306 shares (HCAR No. 22571 (July 9, 1982)). On October 5, 1983, 733,216 shares remained unissued, representing 625,303 shares designated for the DRP and 107,913 shares for the ESOP.

By post-effective amendment, Consolidated now requests that the period for the common stock issuance be extended to December 31, 1984, for the remaining 625,303 DRP shares and to December 31, 1986, for the remaining 107,913 ESOP shares. Consolidated seeks an exception from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) thereof.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28427 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13574; 812-5617]

HOMAC Government Financial Corp.; Application

October 12, 1983.

Notice is hereby given that HOMAC Government Financial Corporation ("Applicant"), National Housing Center, 15th and M Street, NW., Washington, D.C. 20005, a District of Columbia corporation, filed an application on July 29, 1983, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on 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 represents that it is a newly formed, limited purpsoe financing corporation, wholly-owned by Home Mortgage Access Corporation, which like Applicant is a District of Columbia corporation, and which is wholly-owned by Home Mortgage Access Holding Corporation, a Delaware membership corporation. Applicant further states that it has been organized to facilitate the financing of long-term residential mortgages on single-family residences, and will not engage in any other unrelated or investment activities.

Applicant states that it intends to issue, in series, certain GNMA-Collateralized Bonds ("Bonds"). Applicant further states that each series of Bonds will be issued pursuant to an indenture ("Idenure") between Applicant and an independent trustee ("Trustee"), supplemented by one or more supplemental indentures. Each series of Bonds will be sold to institutional or retail investors through one or more investment banking firms, it is stated. It is contemplated that certain series of Bonds will be registered under the Securities Act of 1933, while others will be sold in private placements, Applicant states. It is also stated that indentures for public offerings will be subject to the provisions of the Trust Indenture Act of 1939.

Applicant further states that the net proceeds of the sale of each series of Bonds will be loaned by Applicant to various finance companies ("Finance Companies"), each of which will itself be a single purpose corporation or partnership, wholly-owned by a home building company. Applicant further states that each Finance Company will redistribute the proceeds to its builder-parent, which in turn will use such

proceeds to repay indebtedness incurred by it in connection with the origination of mortgage loans on residences constructed by it. It is stated further that each loan by Applicant to a Finance Company will be secured by the grant to Applicant of a security interest in "fully modified pass-through" mortgage-backed certificates ("GNMA Certificates") owned by such Finance Company, which are fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA"). Each GNMA Certificate, Applicant states, will evidence an interest in a pool consisting of the above-mentioned mortgage loans on residences constructed by the Finance Company's parent builder. It is stated also that Applicant will provide security for the Bonds by pledging the GNMA Certificates to the Trustee, and that the GNMA Certificates to the Trustee, and that the GNMA Certificates and other collateral will produce a cash flow sufficient to support the Finance Companies' obligations to Applicant and Applicant's obligations to the Bondholders.

Applicant represents, in addition, that an independent mortgage company will be the servicer of each mortgage loan, and will have the power and obligation to foreclose against the property securing any delinquent mortgage loan, liquidate that property, pursue any mortgage insurance or guarantee claims, collect prepayments of principal, and collect any insurance proceeds. Amounts so collected will be paid to the Trustee as a registered holder of the GNMA Certificates, it is stated.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. In support of this request, Applicant notes that a number of large home builders have issued mortgage-backed bonds through wholly-owned finance companies, and that such finance companies have not been required to register under the Act, in apparent reliance upon the exception from the definition of investment company afforded by Section 3(c)(5) of the Act. Applicant submits that there is no public policy reason to require Appllicant to register as an investment company because it is merely facilitating the financing efforts of a number of smaller builders to institute the same financing mechanism and to achieve the same economies of size as the larger builders. Applicant has sought exemptive relief in order to eliminate any uncertainty as to its status under the Act and to its proposed activities as described herein.

An exemption of Applicant from all provisions of the Act is necessary and appropriate in the public interest, it is asserted, because: (1) A company engaged in the business of facilitating the financing of single-family residences, and the assets of which consist principally of GNMA Certificates, is not the type of entity to which the provisions of the Act were intended to apply; (2) Applicant may be unable to proceed with its proposed business if the uncertainties concerning the applicability of the Act are not removed; (3) Applicant's proposed business is intended to serve a recongnized and critical public need for housing and for new sources of mortgage funds for such housing; (4) the granting of the requested exemption will not be inconsistent with the protection of investors, who will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act of 1933 and thereafter by the Indenture and the independent trustee representing their interests under the Indenture.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personnally or by mail 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.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28429 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13571; 812-5616]

L. F. Rothschild Exempt Fund, Inc.; Application

October 12, 1983.

Notice is hereby given that L. F. Rothschild Exempt Fund, Inc. ("Applicant"), 55 Water Street, New York, New York 10041, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified investment company, filed an application on July 29, 1983, and an amendment thereto on September 20, 1983, for an order, pursuant to Section 6(c) of the Act, exempting it from the provisions of Section 12 (d)(3) of the Act to permit it to acquire rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

A Maryland corporation, Applicant seeks to offer a convenient means of investing short-term funds where the direct purchase of high quality, tax-exempt securities may be undesirable or impractical. Applicant will invest in a variety of high quality municipal obligations to maximize current income exempt from federal income taxes to the extent consistent with preservation of capital and maintenance of liquidity. Applicant may purchase floating and variable rate demand notes from municipal and non-governmental issuers, municipal obligations on a "when-issued" basis, and repurchase agreements.

Applicant proposes to improve its portfolio liquidity by acquiring "stand-by commitments". Applicant describes a stand-by commitment as a right acquired in conjunction with a purchased of a municipal obligation from a broker, dealer, or a bank that enables it to sell the same principal amount of the security purchased back to the seller, at Applicant's option, at a specified price. Applicants, investment policies permit it to purchase such commitments solely to facilitate portolio liquidity. Applicant asserts that the acquisition or exercisability of such a commitment will not affect the valuation or maturity of the underlying portfolio security which it will value by the amortized cost method. Applicant states that its stand-by commitments will have the following characteristics: (1) They will be in writing and will be physically held by its custodian; (2) they may be exercised by it at any time prior to the maturity of the underlying security; (3) they will be entered into only with dealers, banks, and brokers which, in the investment adviser's opinion, present a minimal risk of default; (4) Applicant's right to exercise the stand-by commitments will be unconditional and unqualified; (5) although the commitments will not be transferable, the underlying securities could be sold

to a third party at any time, even though the stand-by commitment was outstanding; and(6) the exercise price of the stand-by commitment will be (i) Applicant's acquisition cost of the underlying security (excluding any accrued interest which Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the security, plus (ii) all interest accrued on the security since the last interest payment date during the period the security was owned by Applicant.

Because Applicant will value its municipal obligations on an amortized cost basis, it asserts that the amount payable under a stand-by commitment will be substantially the same as the value it will assign to the underlying municipal obligations. In the unlikely event that the market or fair value of its securities was no substantially equivalent to the amortized cost value, Applicant will value its municipal obligations on the basis of available market information and will hold them to maturity. Applicant expects to refrain from exercising stand-by commitments in such a situation to avoid imposing a loss on a broker, dealer, or bank and jeopardizing its business relationship with that entity.

Applicant states that stand-by commitments may be available without the payment of any direct or indirect consideration. If necessary or advisable, however, Applicant will pay for stand-by commitments, either separately in cash or by paying a higher price for the securities acquired subject to the commitment. Applicant states that, as a matter of policy, the total amount it will pay for outstanding commitments will not exceed ½ of 1 percent of the value of its total assets calculated immediately after any commitment is acquired. Because it is difficult to evaluate the likelihood of use or the potential benefit of such a commitment, Applicant intends to assign a "fair value" of zero to such commitmens. When Applicant pays for a stand-by commitment, it will reflect such cost as unrealized depreciation for the period during which it holds the stand-by commitment. For purposes of computing the dollar-weighted average maturity of its portfolio, Applicant will not consider the maturity of a portfolio security shortened or otherwise affected by any stand-by commitment that such security is subject to.

Applicant states that its counsel has advised it that the Internal Revenue Service ("IRS") has issued a private ruling to the effect that a registered investment company will be the owner of municipal obligations acquired subject to a stand-by commitment and that interest on such securities will be tax-exempt. Applicant may, but does not currently intend to, seek a favorable ruling from the IRS with respect to its stand-by commitments.

Applilcant believes its requested relief is appropriate in the public interest and consistent with the protection of investors, contending that stand-by commitments will not affect the calculation of its net asset value per share and will not pose new investment risks. Applicant asserts that stand-by commitments will improve its liquidity. Applicant's stand-by commitments will be secured to the extent of the underlying municipal obligations subject to such commitments. Applicant contends that a stand-by commitment, presents, less risk than a bank certificate of deposit and will present, qualitatively, no greater a risk than the risk of loss faced by any investment company holding securities pending settlement after having agreed to sell the securities to a broker, dealer, or bank in the ordinary course of business. Applicant asserts that stand-by commitmens will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of brokers, dealers, or banks in determining its net asset value. Nevertheless, Applicant's investment adviser intends to evaluate periodically the credit of institutions issuing such commitments. Finally, Appplicant will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its share, or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commision, Washington, D.C. 20549. A copy of the request should be served personally or by mail 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.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29430 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23085; 70-6908]

National Fuel Gas Co. and National Fuel Gas Distribution Co; Proposed Issuance and Sale of Debentures by Holding Company and Acquisition of Long-Term Notes Issued by Subsidiary

October 12, 1983.

National Fuel Gas Company ("National"), 30 Rocefeller Plaza, New York, New York 10020 a registered holding company, and one of its subsidiaries, National Fuel Gas Distribution Corporation ("Distribution Corporation"), 10 Lafayette Square, Buffalo, New York 14203, have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

National proposes to issue and sell not later than December 31, 1983, up to $50 million principal amount of its — percent Debentures, Series due ———. The price and annual interest rate will be determined through competitive bidding. National intends to employ alternative competitive bidding procedures in accordance with the Commission's statement of policy set forth in HCAR No. 22623 (September 2, 1982). National states, however, that should market conditions appear unfavorable, it may request an exception from competitive bidding requirements under Rule 50(a)(5).

Distribution Corporation proposes to issue and sell, and National proposes to acquire, up to $50 million of its long-term unsecured notes. Such notes will be dated as of the date of issue, will bear interest payable semiannually at the effective interest cost of the debentures, and will mature serially on the date of any related sinking fund obligations for the debentures, or on the maturity of the debentures; provided that National will have the option to require Distribution to repay such notes at any time within the twelve months preceding their respective maturity dates. The proceeds from the sale of such notes will be used by Distribution to repay an equal principal amount of its short-term notes held by National.

The application-declaration and any amendments thereto are available for public inspection through the

Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by November 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued. After said date, the Commission-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28434 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13577; 811-3325]

Republic Government Income Fund, Inc.; Application

Notice is hereby given that Republic Government Income Fund, Inc. ("Applicant"), 2630 Westridge, Houston, Texas 77054, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 28, 1983, for an order of the Commission pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company as defined in the Act. All ihnterested persons are referred to the application on 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 was organized under Mayland law on October 20, 1981, and that on November 18, 1981 it registered under the Act by filing a Form N-8A Notification of Registration, and on the same date filed a Form N-1 registration statement under the securities Act of 1933 and the Act. It is stated further that Applicant's registration statement related to an indefinite number of shares of Applicant's common stock, and was the subject of three "pre-effective" amendments before being declared effective on August 17, 1982. On August 18, 1982, Applicant states, its initial public offering of shares commenced. It is stated also that applicant is a "money market" fund, and that its investment adviser and distributor is Shap Management Group, Inc.

It is further stated that Applicant's portfolio consisted of a Small Business Administration ("SBA") loan and repurchase agreements. The SBA loan was sold in the over-the-counter market on a net basis at Applicant's cost, without payment of brokerage commissions, it is stated, and the repurchase agreements were renewed in reduced amounts until such time as there were none outstanding.

Applicant further states that at a special meeting held on December 28, 1982, Applicant's Board of Directors approved a Plan of Liquidation and Dissolution ("Plan"), which on the same date was adopted by Applicant's sole stockholder through unanimous written consent. As of December 30, 1982, it is stated, Applicant had 100,000 shares of common stock outstanding, par value $.001 per share, its only authorized class of capital stock. Applicant's net assets as of that date, it is stated, totaled $104,672.20, or $1.04 per share. On December 30, 1982, Applicant implemented the plan by distributing $104,672.20 to its sole stockholder of record, it is stated. Thus, Applicant states, it presently has no assets and no securityholders, and, it is further stated, no liabilities outstanding. Applicant further represents that it is not a party to any litigation or adminstrative proceeding, and that it is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail 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.

Geoarge A. Fitzsimmons,

Secretary.

[FR Doc. 83-28428 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 12, 1983

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the stock of:

BAT Industries
American Depository Receipts (File No. 7-7146)

This security is registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 2, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28432 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 12, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder.

for unlisted trading privileges in the common stock of:

Western Company of North America
Common Stock, $.30 Par Value (File No. 7–7152)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 2, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28431 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20272; (SR-MSRB-83-12)]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

October 12, 1983.

The Municipal Securities Rulemaking Board ("MSRB") 1150 Connecticut Avenue, NW., Washington, D.C. 20036, submitted on August 18, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to amend MSRB Rule G–12 and MSRB Rule G–15 to revise the confirmation disclosure requirements regarding transactions involving zero coupon, compound interest and multiplier securities to reflect the special trading characteristics of such securities. Specifically, the MSRB proposes to amend paragraphs (c)(v)(I), (c)(v)(P) and (vi)(1) of Rule G–12 and paragraphs (a)(ix)(A), (a)(ix)(B), (e) and (i) of Rule G–15. The MSRB states that the rule change will become effective 60 days after the Commission approves the proposed rule change, assuming the rule change is approved.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 20153, September 6, 1983) and by publication in the **Federal Register** (48 FR 40965, September 12, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28436 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20269; File No. SR-NYSE-83-45]

Self-Regulatory Organizations; Proposed Rule Changes; New York Stock Exchange, Inc.; Relating to Changes to Article VIII, Section 4 (Arbitrators), Section 5 (Member Controversies), and Section 6 (Nonmember Controversies) of the Exchange Construction and the Adoption of Rule 633 (Member Controversies)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 30, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed amendments to Article VIII, Sections 4, 5, and 6 and Rule 633 acknowledge the Exchange's role as a national market place by permitting member controversies to be heard and resolved by arbitrators in locations other than New York City. In addition, the amendments increase the number of individuals who are qualified to serve as arbitrators by permitting former members and allied members and officers of member corporations to serve on the Board of Arbitration and by permitting retirees to serve on the securities panels. Finally, the amendments streamline the arbitration process for member controversies by permitting controversies to be resolved by fewer arbitrators.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filling with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) *Purpose of Proposed Rule Changes*

The purposes of the proposed rule changes are to:

- Permit disputes between members, allied members and member organizations to be heard or resolved in locations other than New York City.
- Permit present and former members, allied members and officers of member corporations to serve on the Board of Arbitration.
- Permit retirees to serve on the securities panels.
- Permit member controversies involving less than $10,000 to be heard by one arbitrator and to permit member controversies involving $10,000 or more to be heard by either three or five arbitrators.

(b) *Statutory Basis for the Proposed Rule Changes*

The proposed changes are consistent with Section 6(b)(5) of the Act in that they promote just and equitable principles of trade by insuring that members and member organizations and the public have an impartial forum for the resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes do not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

Dated: October 11, 1983.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 83-28420 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

National Driver Register Advisory Committee; Establishment and First Public Meeting

Notice is hereby given of the establishment of the National Driver Register (NDR) Advisory Committee. The Committee reports to the Secretary of Transportation and is under the sponsorship of the National Highway Traffic Safety Administration (NHTSA). The objectives of the Committee are to review the maintenance, operation, and responsiveness of the National Driver Register to ensure that timely and appropriate assistance is being provided to States in exchanging information on motor vehicle driving records.

The Committee is composed of 15 members appointed by the Secretary. As required by the law, the members are chosen from the following categories: Category I—three members from among individuals who are specially qualified to serve on the Committee by virtue of their education, training or experience and who are not employees of the Federal Government or of any State; Category II—three members from among groups outside the Government which represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations; and Category III—nine members, geographically representative of the participating States, from among individuals who are chief driver licensing officials of participating States.

The members appointed to serve on the NDR Advisory Committee are: Category I—Mr. Kim Rohrabacher, Corporate Relocation Manager, Computer Sciences Corporation, El Segundo, CA; Mr. Robert Forman, Vice President, Safety and Security, Trailways, Inc., Dallas, TX; Mr. Kenneth Nathanson, President, Citizens for Safe Drivers, Washington, D.C.; Category II—Mr. Carl Ritter, Vice President, Safety Insurance & Claims, The Mason & Dixon Lines, Inc., Kingsport, TN; Mr. R. V. Durham, Director, Safety & Health Department, International Brotherhood of Teamsters, Washington, D. C.; Dr. B. J. Campbell, Director, Highway Safety Research Center, University of North Carolina, Chapel Hill, NC; Category III—Mr. James Petry, Director of Revenue, Wyoming Department of Revenue & Taxation, Cheyenne, WY; Mr Robert Thompson, Assistant Director, Bureau of Motor Vehicle Services, Department of Transportation, Washington, D.C.; Mr. Douglas Savala, Director, Bureau of Field Services, Michigan Department of State, Lansing, MI; Mr. George Meese, Director, Department of Motor Vehicles, Sacramento, CA; Mr. John Zogby, Deputy Secretary, Safety Administration, Department of Transportation, Harrisburg, PA; Mr. Joseph Rockford, Director Driver Services Department, Illinois Secretary of State, Springfield, Illinois; Mr. C.W. Keith, Director, Division of Driver Licenses, Department of Highway Safety and Motor Vehicles, Tallahassee, FL; Ms. Marlene Swanson, Director, Driver and Vehicles Services Division, Department of Public Safety, St. Paul, MN; and Mr. Harold Hammond, Commander, Driver License Division, Alabama Department of Public Safety, Montgomery, AL.

All meetings of the Committee will be open to the public. Notice of time and place and outline agenda of all meetings will be published in the **Federal Register** 15 days prior to the meeting.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of the first meeting of the NDR Advisory Committee to be held on December 13 and 14, 1983 at the DOT Headquarters Building in room 2230 starting at 9:00 a.m. on both days. The agenda will consist of NHTSA staff briefings on the NDR program status.

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. Any member of the public may present a written statement to the Committee at any time.

Additional information may be obtained from the NHTSA Executive Secretariat, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2870.

Issued in Washington, D.C. on October 14, 1983.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 83-28456 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP83-2; Notice 2]

VEB Reifenkombinat Furstenwalde; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by VEB Reifenkombinat Furstenwalde of East Germany to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for

noncompliances with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, and with 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*. The basis of the petition was that the noncompliance were inconsequential as they relate to motor vehicle safety.

Notice of receipt of the petition was published on April 18, 1983, and an opportunity afforded for comment (48 FR 16467).

Both Federal Safety standards for vehicle tires require certain information be permanently molded into each sidewall of the tire. Petitioner, whose tires bear the trade name "Pneumant", failed to fulfill this requirement in certain respects. Specifically, it failed to mark one sidewall of passenger car tires with the maximum permissible inflation pressure, the maximum load rating, the generic name of the cord material, and the actual number of plies. This information is required by Sections 4.3 (b), (c), (d), and (e), respectively, of Standard No. 109. As for truck tires, it has omitted on one sidewall to state the maximum load rating and corresponding inflation pressure, the actual number of plies and composition of ply cord, and the letter designating load range. This information is required by Sections 6.5 (d), (f), and (j), respectively, of Standard No. 119. From 1977 through 1982 petitioner shipped to the United States approximately 1,200,000 noncomplying passenger car tires, and 120,000 noncomplying truck tires.

In the view of the petitioner the noncompliances are inconsequential because:

"Since it is the usual practice for the vehicle manufacturer to specify the tire size, ply rating, and inflation pressures recommended for the particular vehicle, for the user's information, it is our belief that the technical data concered in this petition would rarely involve the user, in addition, in case of need the information is available on all the tires produced by us, and is fully apparent at the time of fitting. . . ."

Two comments were received on the petition. Ms. Patricia Hill of Howell, Michigan, recommended denial because she believes that the omitted information is necessary for the safe application and use of the tire, and that handling and braking performance is degraded when tires with differing cord materials are employed on a single vehicle. The State of Maryland recounted difficulties experienced in its motor vehicle inspection program when these tires appeared; however, these problems have abated after inspectors were directed to inspect the inward-mounted side of the tires for the missing information.

The agency has no indication that equipping a vehicle with tires of differing cord materials results in any degradation of performance, provided they are the same size and construction, and inflated properly. Tire inflation placards installed on the vehicles pursuant to Motor Vehicle Safety Standards Nos. 110 and 120 (as well as information in the vehicle operator's manual) will contain inflation pressure information which the operator can reference if the information side of the tire is mounted inwards. Conformance of the tires with the performance requirements of the standards is not in question.

In consideration of the foregoing, it is hereby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

The engineer and attorney primarily responsible for this notice are Art Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 13, 1983.

Kennerly H. Diggs,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-28458 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

On October 13, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0094
Form Number: 1041 A
Type of Review: Revision
Title: U.S. Information Return—Trust Accumulation of Charitable Amounts
OMB Number: 1545-0065
Form Number: 4070/4070PR
Type of Review: Revision
Title: Employee's Report of Tips to Employer
OMB Number: 1545-0014
Form Number: 637
Type of Review: Revision
Title: Registration for Tax Free Transactions Under Chapters 31 and 32 of the Internal Revenue Code
OMB Number: 1545-0055
Form Number: 1001
Type of Review: Existing Regulations
Title: Ownership, Exemption or Reduced Rate Certificate
OMB Number: 1545-0175
Form Number: 4626
Type of Review: Existing Regulations
Title: Computation of Minimum Tax—Corporations
OMB Number: 1545-0256
Form Number: 941C/941PR
Type of Review: Revision
Title: Statement to Correct Information

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0221
Form Number: ATF F 5640.1
Type of Review: Extension
Title: Officer in Compromise of Liability Incurred Under Chapters 51, 52, 53, and/or 78 of IRS Code
OMB Number: None
Form Number: None
Type of Review: Existing Regulation
Title: Foreign Shipper's Declaration
OMB Number: 1512-0025
Form Number: ATF F 2 (7560.2)
Type of Review: Revision
Title: Notice of Firearms Manufactured or Imported
OMB Number: 1512-0208
Form Number: ATF F 5110.45
Type of Review: Extension
Title: Package Gauge Report
OMB Number: 1512-0005
Form Number: ATF F 3210.1
Type of Review: Revision
Title: Application for Restoration of Firearms and/or Explosives Privileges
OMB Number: None
Form Number: ATF F 5400.21
Type of Review: New
Title: Application Permit for User-Limited Special Fireworks
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of Government Financial Operations

OMB Number: 1510–0049
Form Number: TFS–1201
Type of Review: Extension
Title: Status of Federal Funds
OMB Number: 1510–0024
Form Number: TFS 1503
Type of Review: Extension
Title: Return Notice on Claim Against the United States for the Proceeds of a Government Check

Comptroller of the Currency

OMB Number: 1557–0125
Form Number: N/A
Type of Review: Revision
Title: Special Report of Trust Department Activities
OMB Number: None
Form Number: N/A
Type of Review: Existing Regulations
Title: Limitations on Payment of Dividends
OMB Number: None
Form Number: N/A
Type of Review: Existing Regulations
Title: Investment in Banks Premises or Stock of a Corporation Holding Premises
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: October 13, 1983.

Rita A. DeNagy,

Departmental Reports Management Office.

[FR Doc. 83-28411 Filed 10-18-83; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

AGENCY: United States Information Agency.

ACTION: Modification of notice.

SUMMARY: The United States Information Agency is mofidying a notice found at 48 FR 29782 (June 28, 1983) regarding immunity from judicial seizure for the objects in the exhibit "Giovanni Battista Piazeta: A Tercentary Exhibition" by expanding the list to include four additional works of art.

EFFECTIVE DATE: The modification is effective October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Office of the General Counsel, United States Information Agency, 400 "C" Street, SW, Washington, D.C. 20547.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the additional objects in the exhibit "Giovanni Battista Piazetta: A Tercentary Exhibition" (included in the list[1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, beginning on or about November 20, 1983, to on or about February 26, 1984, is in the national interest.

Public Notice of this determination is ordered to be published in the **Federal Register**.

Dated: October 14, 1983.

Jonathan W. Sloat,

General Cousel and Congressional Liaison.

Exhibition: "Giovanni Battista Piazetta: A Tercentary Exhibition"

Additional Objects

Country—Austria

A Self-Portrait of the Artist, Piazetta, Etching, 1738, 71 x 50, Graphische Sammlung Albertina, Vienna, Austria
The Head of the Virgin, Piazetta, Etching, c.1738, 98 x 72, Graphische Sammlung Albertina, Vienna, Austria
Sheet with Four Engravings (The Drummer Boy), Piazetta, Engraving, 1776 Graphische Sammlung Albertina, Vienna, Austria
Six Engravings of Vignettes, Piazetta, Engraving, 1776, Graphische Sammlung Albertina, Vienna, Austria

[FR Doc. 83-28460 Filed 10-18-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:24 p.m. on Friday, October 14, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The First National Bank of Midland, Midland, Texas, which was closed by the Acting Comptroller of the Currency on Friday, October 14, 1983; (2) accept the bid for the transaction submitted by RepublicBank First National Midland, Midland, Texas, a newly-chartered national bank subsidiary of RepublicBank Corporation, Dallas, Texas; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S..C 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 17, 1983

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1473-83 Filed 10-17-83; 3:40 pm]

BILLING CODE 6714-01-M

2

SECURITIES AND EXCHANGE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS: (48 FR 44310 9/28/83 and 48 FR 45493 10/5/83).

STATUS: Closed meetings.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, September 23, 1983; Friday, September 30, 1983.

CHANGE IN THE MEETING:
Additional meeting/items.

The following items were considered at a closed meeting scheduled on Wednesday, October 5, 1983, at 4:00 p.m.:

Formal order of investigation.
Enforcement matter.

The following additional items were considered at a closed meeting scheduled on Wednesday, October 12, 1983, at 9:30 a.m.:

Formal order of investigation.
Institution of injunctive action.
Consideration of amicus participation.

Commissioners Evans, Thomas, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: JoAnn Zuercher at (202) 272-2014.

October 14, 1983.

[S-1472-83 Filed 10-14-83; 4:17 pm]

BILLING CODE 8010-01-M

federal register

Wednesday
October 19, 1983

Part II

Department of Health and Human Services

Food and Drug Administration

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, for Over-the-Counter Human Use; Tentative Final Monograph for OTC Antitussive Drug Products

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 76N-052T]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for OTC Antitussive Drug Products

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) antitussive drug products (drug products used to relieve cough) are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal deals only with antitussive drug products and is part of the ongoing review of OTC drug products conducted by FDA.

DATE: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by December 19, 1983. New data by October 19, 1984. Comments on the new data by December 19, 1984. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination by February 14, 1984.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, Md 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1976 (41 FR 38312) FA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products, together with the recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in these drug classes. Interested persons were invited to submit comments by December 8, 1976. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1977.

In a notice published in the **Federal Register** of March 21, 1980 (45 FR 18400), the agency advised that it had reopened the administrative record for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record previously had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980 should be available to the agency in developing a proposed regulation in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened have also been put on display in the Dockets Management Branch. In response to the advance notice of proposed rulemaking, 23 manufacturers, 1 consumer, 7 health care professionals, and 1 health care professional society submitted comments on antitussive. Copies of the comments received are on public display in the Dockets Management Branch.

FDA is issuing the tentative final monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products in segments. This document on antitussive drug products is the third segment to be published. The first segment, on anticholinergic drug products and expectorant drug products, was published in the **Federal Register** of July 9, 1982 (47 FR 30002). The second segment, on bronchodilator drug products, was published in the **Federal Register** of October 26, 1982 (47 FR 47520). Subsequent segments, on antihistamines, nasal decongestants, and combination drug products and general comments, will be published in future issues of the **Federal Register**.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on September 9, 1976 (41 FR 38312), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) FDA states for the first time its position on the establishment of a monograph for OTC antitussive drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC antitussive drug products.

This tentative final monograph would amend Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations in Part 341 (as set forth in the tentative final monograph on anticholinergic drug products and expectorant drug products that was published in the **Federal Register** of July 9, 1982 (47 FR 30002)) in Subpart A, by adding in § 341.3, new paragraphs (j) and (k); in Subpart B, by adding § 341.14; and in Subpart C, by adding new § 341.74, and by adding in § 341.90, new paragraphs (o) and (p). This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC antitussive drug products, as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the **Federal Register** of September 29, 1981; 46 FR 47730.) The Court in *Cutler* held that the OTC drug regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III

classification, and submission to FDA of the results of that testing or any other data, must be done during the OCT drug rulemaking process, before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products (published in the **Federal Register** of September 9, 1976 (41 FR 38312)), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and have their products in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition form OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of August 9, 1972 (37 FR 16029) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments on Antitussive Drug Products

1. One comment questioned whether any "medicine" should be allowed on the market simply for coughs. The comment explained that the public should be taught that a cough can come from postnasal drip, in which case a decongestant or an antihistamine might be indicated, or that a cough can come from asthma, in which case aminophylline might be indicated. The comment concluded that "cough medicines" are mostly "fakes" and the public should not be encouraged "to believe that it is unwise to cough without cough medicine."

The Panel recognized in its report that cough is a protective, physiologic reflex occurring in both healthy and diseased individuals (41 FR 38321 and 38338). Coughing helps clear the respiratory tract of secretions and foreign materials. Coughing may be a symptom associated with a variety of disease states, and whether or not to use an antitussive depends on the particular disease state. For example, in asthma, bronchitis, cystic fibrosis, and other respiratory diseases, there is an overproduction of secretions, and the cough reflex is essential in maintaining an open airway by clearing the respiratory passages of excessive secretions. Therefore, the use of an antitussive in these conditions would be harmful. In order to discourage use of an antitussive in these type of respiratory conditions, the Panel recommended a warning in § 341.74(b)(2) that the product should not be taken for persistent or chronic cough such as occurs with smoking, asthma, emphysema, or where cough is accompanied by excessive secretions except under the advice and supervision of a doctor. However, where cough is associated with a self-limiting respiratory tract infection, or from the inhalation of irritant gases, or dusts, an OTC antitussive would be useful. Coughs due to the common cold and coughs due to inhaled irritants are the only types of coughs for which the Panel specifically designated the use of antitussives. Cough suppressant therapy would be indicated in these cases to help relieve irritation to the respiratory tract, and to help an individual rest or sleep comfortabley. These self-limiting conditions would rarely last more than 1 week. Coughs lasting more than 1 week may be indicative of a serious disease and should be treated by a doctor; therefore, the Panel recommended a warning in § 341.74(b)(3) limiting use of

an antitussive to 1 week. The agency believes that the warnings proposed by the Panel to discourage the use of antitussives in other than self-limiting conditions and the required indication proposed by the agency are explicit and adequate. Antitussives can be beneficial in alleviating coughs in acute, self-limiting conditions and should be available for OTC use.

2. One comment pointed out what it considered to be an error in the Panel's description of the symptoms of asthma. The comment noted that the Panel's statement that an "irritative cough * * * with a self-limiting respiratory tract infection" is "associated with a dry, hacking nonproductive cough in which no sputum is expectorated" was set in contrast to "the cough of asthma" (41 FR 38321). The comment contended that a cough without wheezing, exactly fitting the above description of irritative cough, is often the first and sometimes the only symptom of asthma in children. The comment contended that the Panel's statement reflects the cough of adult asthma and that it contains a significant error when the symptoms of asthma in children are considered.

The agency has reviewed the Panel's discussion of cough in which the Panel compared "nonproductive" (no sputum produced) and "productive" (sputum produced) types of cough (41 FR 38321). The Panel stated that the cough associated with self-limiting respiratory tract infection or following the inhalation of irritant gases or dusts is usually a dry, hacking, nonproductive cough in which no sputum is expectorated, and this type of cough lends itself to self-medication with OTC antitussive drug products. On the other hand, the loose, productive type of cough frequently associated with asthma and bronchitis should not be treated with an antitussive drug because the suppression of retained bronchial secretions could lead to increasing disability. Moreover, the Panel qualified its statements by saying that inhalation of irritant gases and dusts is "usually associated with a dry, hacking nonproductive cough," whereas a loose, productive cough is "frequently associated with asthma and bronchitis." The agency believes that these statements were intended to be general guidelines to appropriate treatment of cough, not precise statements of symptomology. More importantly, the Panel's statement and resulting label warning provide that any cough that persists for longer than 1 week should be diagnosed by a doctor. This limitation provides a safety factor in the use of antitussive drug products in children in treating cough without wheezing, should such a cough be a symptom of asthma.

3. One comment, citing the Panel's discussion that topical anesthetics and analgesics may be effective as "peripherally acting antitussives" by decreasing the sensitivity of special nerve endings or cough receptors in the mucosa of the respiratory tract (41 FR 38338), recommended that topical anesthetics, such as benzocaine, be placed in Category III as antitussives. The comment cited a study showing that a two-lozenge dose of 15 milligrams (mg) dextromethorphan and 5 mg benzocaine provided an antitussive effect, as measured by citric acid-induced cough, for 8 hours (Ref. 1). Based on the Panel's recommended 10- to 20-mg dose of dextromethorphan every 4 hours, the comment pointed out that the total dose of 15 mg dextromethorphan contained in the two lozenges should have been effective for only 3 to 4 hours, and thus attributed the extended duration of the antitussive effect to the presence of the benzocaine in the lozenge.

The Panel did not evaluate any topical anesthetic ingredients as antitussives. Three topical anesthetics, benzocaine, benzyl alcohol, and hexylresorcinol, were submitted to the Panel, but all three of these ingredients were deferred to other advisory review panels, including the Advisory Review Panel on OTC Oral Cavity Drug Products, which evaluated all three of these ingredients as topical analgesic/anesthetics for use in the oral cavity.

The study cited by the comment did not evaluate the contribution of either dextromethorphan or benzocaine to the antitussive effect shown by the combination of these ingredients, and the comment provided no new data to substantiate its argument. In the absence of any data on which to base a conclusion with regard to the effectiveness of topical anesthetics, such as benzocaine, for antitussive use, a Category III classification is not warranted. Anyone wishing to submit data demonstrating the antitussive effect of topical analgesic/anesthetic ingredients may do so during the period following publication of this proposed rule or may submit data through the new drug application (NDA) procedures.

Reference

(1) OTC Volume 040131.

B. Comment on Switching Prescription Antitussive Active Ingredients to OTC Status

4. One comment requested that chlophedianol hydrochloride be reclassified from prescription to OTC status as an antitussive. The comment claimed that this ingredient generally satisfies the conditions recommended by the Panel for OTC antitussive products and submitted copies of published studies to substantiate its claim (Refs. 1 through 10). Chlophedianol hydrochloride was not reviewed by the Panel.

The agency has evaluated the data submitted to support the safety and effectiveness of chlophedianol hydrochloride and concludes that these data justify reclassification of this ingredient from prescription status to Category I as an OTC antitussive active ingredient.

In the **Federal Register** of April 29, 1971 (36 FR 8071), FDA indicated that it had evaluated a report received from the National Academy of Science/National Research Council (NAS/NRC), Drug Efficacy Study Group, as well as other available evidence on a prescription cough syrup containing chlophedianol hydrochloride, and conclude that this drug is effective for symptomatic relief of cough. The NAS/NRC report cited studies by Chen, Biller, and Montgomery (Ref. 1), Noel (Ref. 3), and Simon (Ref. 9) in classifying this ingredient as effective for the relief of cough. The cough syrup containing chlophedianol hydrochloride had been previously approved in 1960, based only on safety data, for prescription antitussive use.

In determining the safety of chlophedianol hydrochloride for OTC use, the agency reviewed the side effects reported in the clinical studies included in the NDA; the annual adverse reaction summary listing for the years 1974 to 1982 (Ref. 11); the summary of side effects in the comment's submission—32 cases reported between August 10, 1959 and December 16, 1974; and the side effects reported in studies by Schweem and Haden (Ref. 2), Noel (Ref. 3), Schechter and Rasansky (Ref. 4), Richter et al. (Ref. 6), and Saunders (Ref. 8). On the basis of the NDA reports and the studies cited above, the agency concludes that chlophedianol hydrochloride is safe for use as an OTC antitussive.

Therefore, the agency is proposing to reclassify chlophedianol hydrochloride from prescription to OTC use as a Category I oral antitussive at the following dosages, based on the currently approved NDA for this product: Adults: oral dosage is 25 mg every 6 to 8 hours, not to exceed 100 mg in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 12.5 mg every 6 to 8 hours, not to exceed 50 mg in 14 hours, or as

directed by a doctor. Children under 6 years of age: consult a doctor.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Ref. 12).

Although the agency is proposing in this tentative final monograph to switch cholophedianol hydrochloride to OTC use from its present status as a prescription drug, OTC marketing may not begin at this time. In the **Federal Register** of June 3, 1983 (48 FR 24925), FDA explained the enforcement policy for drugs that were originally on prescription status but which were being proposed for OTC marketing under the OTC drug review. As noted there, 21 CFR 330.13 permits OTC marketing of a drug previously limited to prescription use prior to publication of a final monograph provided that certain conditions are met. To qualify for such treatment, the drug must, at a minimum, have been considered by an OTC drug advisory review panel and either recommended for OTC marketing by the panel or subsequently determined by FDA to be suitable for OTC marketing. Chlophedianol hydrochloride was not considered by a panel and, therefore, does not qualify for early OTC marketing under the terms of the enforcement policy set out in § 330.13. Moreover, FDA believes that the drug is not otherwise appropriate for OTC marketing at this time. FDA believes that public comments submitted in response to the proposed switch in status should be evaluated before OTC marketing is begun. Accordingly, until such comments are reviewed, chlophedianol hydrochloride remains a prescription drug subject to the terms and conditions specified in its approved NDA.

References

(1) Chen, J. Y. P., H. F. Biller, and E. G. Montgomery, Jr., "Pharmacological Studies of a New Antitussive, *Alpha* (Dimethylaminoethyl) *Ortho*-Chlorobenzhydrol Hydrochloride (SL-501, Bayer B-186)," *The Journal of Pharmacology and Experimental Therapeutics*, 128:384–391, 1960.

(2) Schweem, H. H., and H. M. Haden, "Control of Cough with Chlophedianol Hydrochloride a New Nonnarcotic Antitussive Agent," *The Journal of the Florida Medical Association*, 49:302–304, 1962.

(3) Noel, P. R., "The Evaluation of a New Cough Suppressant, 'Detigon', in General Practice," *The British Journal of Diseases of the Chest*, 56:70–77, 1962.

(4) Schechter, F. R., and H. N. Rasansky, "Cough—A New Nonnarcotic Antitussive Agent for its Control," *Medical Times*, 90:155–156, 1962.

(5) Nathan, L. A., "Clinical Evaluation of Chlophedianol a New Nonnarcotic Antitussive," *Applied Therapeutics*, 4:830–831, 1962.

(6) Richter, I. B., et al., "New Nonnarcotic Antitussive Agent," *Western Medicine*, 3:138–139, 1962.

(7) Vogel, G., "A New Nonnarcotic Antitussive," *General Practice*, 25:9–10, 1962.

(8) Saunders, D. C., "Trial of an Anti-Tussive Preparation in Droplet Form," *The Practitioner*, 186:367–369, 1961.

(9) Simon, S. W., "The Effectiveness of Non-narcotic Antitussive Drugs," *Journal of the American Geriatrics Society*, 10:653–657, 1962.

(10) Casey, V. J., "Treatment of 'Common Cold' in School Children without Narcotics or Antibiotics," *Medical Record and Annals*, 56:2–4, 1963.

(11) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listing," pertinent pages for the years 1974–1982, OTC Volume 04TTFM, Docket No. 76N–052T, Dockets Management Branch.

(12) Letter from, W. E. Gilbertson, FDA, to T. C. McPherson, Riker Laboratories, Inc., coded LETO 76, Docket No. 76N–052T, Dockets Management Branch.

C. Comments on Specific Antitussive Active Ingredients

5. One comment requested reclassification of camphor from Category III to Category I as an antitussive for topical use in an ointment to be rubbed on the chest and submitted data from two new studies (Refs. 1 and 2), as well as a reanalysis of data from a study reviewed by the Panel (Ref. 3), to show the effectiveness of this ingredient.

The agency has reviewed the data and concludes that two of the studies are adequate to support the reclassification of camphor to Category I for this use (Refs. 1 and 3). In the first study, the antitussive effectiveness of 4.73 percent camphor in petrolatum was compared with petrolatum alone as a control in 48 patients with chronic cough due to bronchopulmonary disease (Ref. 1). The data indicated that camphor decreased the number of coughs and cough components to a significantly greater degree than the petrolatum control. The agency concludes that this study is acceptable in demonstrating the effectiveness of 4.73 percent camphor as an antitussive in a suitable ointment vehicle to be rubbed on the chest.

The agency's review of the second study (Ref. 3) indicates that the original tabulations reviewed by the Panel appear to have been incorrect and that the revised statistical analyses of the induced cough studies show statistical evidence of the superiority of 5.3 percent camphor over petrolatum alone in reducing cough counts.

A third study was reviewed by the agency and found not to be supportive of camphor as an antitussive ingredient because there were no significant differences among the four treatment groups studied (Ref. 2).

Based on the evaluation of the first two studies, the agency proposes to reclassify camphor in concentrations of 4.7 to 5.3 percent for topical use in an ointment to be rubbed on the chest from Category III to Category I in this tentative final monograph. The directions for camphor are being proposed as follows: Adults and children 2 to under 12 years of age: rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

The agency notes that in the submitted studies the ointment was used on the anterior chest and not on the back. Therefore, the Panel's recommended direction for use that provides for camphor to be "rubbed on the back" is not being reclassified as Category I, but remains in Category III. Because no data were submitted on camphor for use as an antitussive in a steam vaporizer, camphor for this use also remains in Category III.

The warning "For external use only. Do not take by mouth or place in nostrils" is being proposed in the "Warnings" section of this tentative final monograph. The Panel recommended that such warning be included in the required labeling for antitussive drug products containing camphor that are used in the form of an ointment, and the agency concurs.

The agency's detailed comments and evaluation of the data are on file in the Dockets Management Branch (Ref. 4).

References

(1) Finkel, S., and S. Zuckerman, "Antitussive Effectiveness: Chronic Cough Counting," (Study CRD 78–13), draft of unpublished study, Comment No. SUP008, Docket No. 78N–0052, Dockets Management Branch.

(2) Dennis, S. R. K., P. Bass, and G. doPico, "VapoRub," (Study CRD 76–41), draft of unpublished study, Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(3) Packman, E. W., "Antitussive Screening: Citric Acid Aerosal Technique," (Study CRD 74–19/A and B), reanalysis of data, Comment No. CR0004, Docket No. 76N–0052, Dockets Management Branch.

(4) Letter form W. W. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET078.

Docket No. 76N-052T, Dockets Management Branch.

6. One comment submitted a new study to support the reclassification of caramiphen edisylate from Category III to Category I as an antitussive (Refs. 1 and 2). Several comments requested that the Panel's recommended 80-mg maximum daily dosage for caramiphen edisylate be increased to 120 mg. One of the comments stated that no significantly greater incidence of adverse effects occurred with the 120-mg dosage when compared with placebo or 60 mg of caramiphen edisylate. This comment cited material previously submitted to FDA under an Investigational Exemption for a New Drug in support of the 120-mg maximum daily dosage.

The agency has reviewed the submitted study (Study PM-252) and determined that the data do not support the reclassification of caramiphen edisylate from Category III to Category I as an OTC antitussive. Study PM-252 was a multidose, triple-crossover, double-blined study designed to demonstrate the effectiveness of caramiphen edisylate. Thirteen patients with chronic cough served as subjects for the study; two patients were not included in the final analysis. Each patient received a full dosage schedule treatment with 20 mg caramiphen edisylate, 10 mg caramiphen edisylate, and a placebo.

The agency performed a statistical analysis of the raw data submitted using the same statistical methods used in the submission. The p-values found by the agency did not agree with those submitted by the comment. The agency's analysis produced a p-value >0.20 for the 20-mg dose of caramiphen edisylate when compared with the placebo and a p-value >0.10 for the 10-mg dose of caramiphen edisylate when compared with the placebo, indicating that there was not a statistically significant decrease in cough counts in favor of the 20-mg or the 10-mg dose. In addition, the statistical analysis submitted by the comment ignored a comparison of the drug cough counts with the baseline cough counts which would tend to bias the results in favor of the active drug. When the baseline cough counts were used for comparison with the drug cough counts, the agency's analysis of the treatments produced no statistically significant differences among the three treatments ($p>0.15$). Thus, there is no statistical evidence that caramiphen edisylate is superior to placebo in reducing cough counts. In addition, an examination of the cough counts for each patient revealed that no drug effect was noted in 7 of the 11 patients.

The agency concludes that the submitted data do not provide evidence that caramiphen edisylate is superior to placebo in reducing cough counts. The agency is proposing Category III status at this time because caramiphen edisylate has not been shown to be effective at the 10- or 20-mg does levels. The agency will not address the comment's request for an increase in the maximum daily does at this time.

Studies to demonstrate the effectiveness of caramiphen edisylate must be done in the target population, i.e., patients with acute upper respiratory infections, or if studies are done in a patient population other than the target population, such as patients with chronic cough, the mechanism of action must be shown conclusively to act specifically on the cough center of the brain.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Ref. 3).

References

(1) Comment No. C0169, Docket No. 76N-0052, Dockets Management Branch.

(2) Comment No. AMD003, Docket No. 76N-0052, Dockets Management Branch.

(3) Letter form W. E. Gilbertson, FDA, to J. F. Cassin, Smith Kline & French Laboratories, code LET075, Docket No. 76N-052T, Dockets Management Branch.

7. One comment objected to the Panel's finding that there were no well-controlled studies of the effectiveness of carbetapentance citrate as an antitussive. The comment stated that there are two controlled studies cited by the Panel as Refs. 6 and 13 at 41 FR 38346 (Refs. 1 and 2). The comment also referred to two studies in a submission to the Panel that compared cough syrups containing carbetapentance citrate with cough syrups containing dextromethorphan and placebo, using the citric acid aerosol challenge cough-counting technique (Refs. 3 and 4). The comment claimed that these studies confirmed the antitussive activity of 15 mg of carbetapentane citrate.

The agency has reviewed the studies cited in the comment, i.e., a clinical study by Carter and Maley (Ref. 1) and the summary of the Katz study (Ref. 2); and the two studies using the citric acid aerosol challenge cough-counting technique (Refs. 3 and 4). These studies were submitted to the Panel and were part of the basis for its Category III classification of carbetapentane citrate. The comment did not submit any new data relating to these studies.

In the Carter and Maley study, 557 patients were treated with the medication, and the remaining 134 patients were given placebos (Ref. 1). However, there is no indication as to whether patients were randomly assigned to the treatment or control groups, nor is there any indication of any blinding of the investigator or patients. Although a placebo was used, it connot be said that the study was well controlled.

In the Katz study, 22 patients with pulmonary tuberculosis received medication (Ref. 2). Six patients received 25 mg carbetapentane citrate. Nine patients received 30 mg of codeine as a positive control. These same nine patients, as well as seven other patients, received varying doses of carbetapentane citrate. However, there was no evidence of randomization or any blinding in the study. In the agency's view, the study was not well controlled, and tuberculosis patients are not an appropriate OTC target population.

With respect to the two studies using the citric acid aerosol challenge cough-counting technique, the medications administered were combination products containing carbetapentane citrate as one of the active ingredients (Refs. 3 and 4). In the agency's view, it is not possible to prove the effectiveness of carbetapentane citrate as a single ingredient antitussive agent is such a study design. The agency agrees with the Panel's conclusions that there are insufficient data to permit a determination of the effectiveness of carbetapentane citrate for OTC antitussive use. Therefore, the agency concludes that carbetapentane citrate should remain in Category III.

Studies to demonstrate the effectiveness of carbetapentane citrate must be done in the target population, i.e., patients with acute upper respiratory infections, or if studies are done in a patient population other than the target population such as patients with chronic cough, the mechanism of action must be shown conclusively to act specifically on the cough center of the brain.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Refs. 5 and 6).

References

(1) Carter, C. H., and M. C. Maley, "The Clinical Value of Toclase in Suppressing the Cough Reflex," *American Journal of the Medical Sciences*, 233:77-79, 1957.

(2) Letter from S. Katz to K. Dumas, OTC Volume 040298.

(3) Packman, E. W., draft of unpublished study, OTC Volume 040075, Section V, C.aa.

(4) Packman, E. W., draft of unpublished study, OTC Volume 040075, Section V.C.bb.

(5) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded ANS/LETO70, Docket No. 76N-052T, Dockets Management Branch.

(6) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET082, Docket No. 76N-052T, Dockets Management Branch.

8. One comment stated that codeine-containing cough remedies should be available OTC. The comment pointed out that due to the abuse of codeine-containing cough syrups, they connot be obtained without a prescription. The comment also stated that senior citizens, who are living on a fixed income and who are not likely to become addicted to these products with limited use, should be allowed to obtain these drugs without a prescription. Another comment strongly disagreed with the OTC status of codeine because the abuse potential is high. This comment recommended that codeine antitussive preparations be available only by prescription.

The agency notes that Federal regulations currently permit the OTC sale of codeine antitussives with certain restrictions and that the Panel's recommendations are consistent with these regulations. In many cases, State Laws are more stringent and do not permit the OTC sale of these preparations within the state. Because codeine may be abused, present Federal Drug Enforcement Administration (DEA) regulations place restrictions on the OTC sale of codeine, as set forth in 21 CFR 1306.32. This regulation provides for the OTC dispensing of codeine provided that such dispensing is made only be a pharmacist; not more than 120 milliliters (mL) (4 ounces), nor more than 24 dosage units may be dispensed to the same purchaser in any given 48-hour period; the purchaser is at least 18 years of age; the pharmacist requires every purchaser not known to him to furnish suitable identification; the pharmacist maintains a record book containing the name and address of the purchaser, name and quantity of substance purchased, the date of each purchase, and name or initials of the dispensing pharmacist; and other Federal, State, or local laws do not require a prescription for distribution or dispensing of the substance. FDA regulations at § 329.20(a)(3) (21 CFR 329.20(a)(3)) limit the amount of codeine or its salts that may be marketed without prescription at one time to not more than 64.8 mg per 29.5729 mL or per 28.3 grams (g). In addition, under DEA regulations at § 1308.15(b) (21 CFR 1308.15(b)) and FDA regulations at § 329.20(a) products containing narcotic drugs such as codeine must include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the product valuable medicinal qualities other than those possessed by the narcotic drugs alone. Category I status of codeine ingredients for OTC use is restricted to drug products containing codeine in combination with one or more nonnaroctic active ingredients in accordance with §§ 329.20(a), 341.40, and 1308.15(b).

Although some individuals may abuse these products, the Panel felt that under conditions of normal therapeutic use, codeine has low dependency liability (41 FR 38339). Codeine may cause addiction, but it requires a consistently high daily dose to do so (Ref. 1). Therefore, the agency is proposing that codeine be generally recognized as safe and effective for OTC use as an antitussive agent under the restrictions noted above.

Reference

(1) Himmelsbach, C. K., et al., "Studies on Codeine Addiction," *Public Health Reports (supplement)*, 158: 1-67, 1940.

9. One comment requested that a "careful look" be taken at antitussive medications currently marketed OTC, especially dextromethorphan. The comment stated that, as is the case with any medication for children, the potential for accidental overdosing in children must be considered in any final evaluation.

The agency has reviewed the Panel's discussion pertinent to antitussives. Dextromethorphan has a wide margin of safety with respect to its potential to cause poisoning through accidental overdose. The Panel stated that no fatalities have been reported even with doses in excess of 100 times the normal adult dose (41 FR 38340). A review of the annual adverse reaction summary listing for the years 1969 to 1981 indicated 15 cases of reactions in children aged 1 to 10 years (Ref. 1). The adverse reactions reported included such side effects as hallucination, urticaria, nausea, insomnia, and hysteria, but no fatalities. Ataxia, edema of the face, and urticaria were reported in an apparent overdosing case involving a child 2 years of age who received a total of 225 mg dextromethorphan contained in 2.5 ounces of an antitussive drug product. While the potential for accidental overdosing and subsequent effects must be considered for any drug, in the case of dextromethorphan, the potential for toxicity to occur from accidental overdose is extremely low. The Panel concluded, and the agency concurs, that because of its low order of toxicity, dextromethorphan is probably the safest antitussive presently available. The comment did not present any data to alter these conclusions.

Reference

(1) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listing," pertinent pages for the years 1969-1981, OTC Volume 04TTFM, Docket No. 76N-052T, Dockets Management Branch.

10. Several comments questioned the safety of diphenhydramine hydrochloride for OTC use and stated that studies have shown this ingredient can cause an unacceptable level of drowsiness. Some comments also contended that the available data do not adequately demonstrate antitussive effectiveness. A comment requested that the Commissioner reconsider a decision published in the **Federal Register** of November 30, 1976 (41 FR 52536) in which FDA dissented from the Panel's recommended Category I classification of diphenhydramine hydrochloride for OTC antitussive use and announced that any marketed product containing diphenhydramine hydrochloride for OTC antitussive use would be subject to immediate regulatory action.

At the time the Panel's report was published, September 9, 1976 (41 FR 38312), the Commissioner deferred a decision on the Panel's recommendation to place diphenhydramine hydrochloride in Category I as an OTC antitussive ingredient. FDA stated that the agency would wait until it had made a decision concerning a then pending supplemental NDA that had been submitted under 21 U.S.C. 355 seeking FDA approval for marketing of diphenhydramine hyrochloride as an OTC antitussive for the drug product Benylin. Subequently, on November 30, 1976, the agency announced in the **Federal Register** that the Commissioner did not accept the Panel's recommendation that diphenhydramine hydrochloride be classified in Category I for OTC antitussive use (41 FR 52536). In the **Federal Register** the Commissioner concluded that the recommended antitussive dose of diphenhydramine hydrochloride (25 mg) causes an unacceptable level of drowsiness for OTC use, even with a warning statement in the labeling as recommended by the Panel. Furthermore, although agreeing with the Panel that some data indicated that this ingredient has an antitussive effect, the Commissioner found a lack of

substantial evidence consisting of adequate and well-controlled studies, as required by § 314.111(a)(5)(ii) (21 CFR 314.111(a)(5)(ii)), on which to base a determination of the effectiveness of diphenhydramine hydrochloride as an antitussive. Because diphenhydramine hydrochloride had been limited to prescription use, the agency announced that under 21 CFR 330.13(b)(2) any marketed product containing diphenhydramine hydrochloride for OTC antitussive use was subject to immediate regulatory action.

With respect to the proceeding involving the supplemental NDA for Benylin, on August 31, 1979, FDA published in the **Federal Register** a final decision on the issues that had been presented in a formal evidentiary public hearing (44 FR 51512). In the Benylin decision the Commissioner extensively reviewed the safety and effectiveness data submitted by the manufacturer in support of an NDA for Benylin as an antitussive. This review also included a reevaluation of the findings of the Cough-Cold Panel regarding the general recognition of diphenhydramine hydrochloride's safety and effectiveness as an antitussive agent. In this decision, the Commissioner stated that studies to demonstrate the effectiveness of an antitussive must be done in the target population, i.e., patients with acute upper respiratory infections, and if studies are done in a patient population other than the target population, such as patients with chronic cough, the mechanism of action must be shown conclusively to act specifically on the cough center of the brain. The Commissioner also stated that induced cough studies are not a substitute for adequate and well-controlled studies in the target population and determined that the available data did not show that diphenhydramine hydrochloride was effective as an antitussive by the above criteria.

With regard to the safety of diphenhydramine hydrochloride, the Commissioner stated:

> I believe that, if Benylin were shown to be an effective antitussive drug, it might be possible to devise labeling that would provide adequate warnings of the risk of drowsiness and other ill effects and that, coupled with child resistant packaging, would enable the product to be safely used as an OTC drug. In devising any such labeling [it would be necessary] to consider inclusion of some or all of the information in the approved labeling for prescription Benylin as well as that recommended by the * * * Panel (footnote omitted). The risk to patients from a drug that causes drowsiness is indirect. The drowsiness itself does not cause harm. It is only when the patient tries to undertake a task that requires alertness such as driving a car, that the drug's sedative qualities pose a risk to the patient and to other members of the public. Suitable labeling of an OTC drug may provide sufficient safeguards for a drug that presents serious direct risks (e.g., of cancer or other serious disease), adequate labeling for any use without medical supervision generally cannot be written (44 FR 51524, 51525).

After publication of this notice, new data on the mechanism of action of diphenhydramine hydrochloride as an antitussive were submitted to the agency by the manufacturer of Benylin. These data were provided in response to an October 5, 1979 notice of opportunity for hearing on a proposal to withdraw approval of the NDA for Benylin (41 FR 57497). The new data contained unpublished studies which are considered to be confidential information covered by 21 CFR 20.61 and are not publicly available. Based on the agency's review of these studies and a reevaluation of two studies that had been reviewed by the Panel (Refs. 1 and 2) and included in a "Supplemental Medical Review" (Ref. 3), the agency approved a supplemental NDA for the marketing of Benylin as an OTC antitussive (Ref. 4). In essence, this action constituted the FDA's determination that diphenhydramine hydrochloride had been shown to be safe and effective as an antitussive in this particular product. However, even though FDA approved a supplemental NDA for this product, diphenhydramine hydrochloride as an OTC antitussive continues to be a "new drug" within the meaning of 21 U.S.C. 321(p) because of a lack of general recognition of effectiveness. A determination by FDA that a new drug is safe and effective and the approval of a NDA for the drug are not, of course, synonymous with a determination that a drug is generally recognized as safe and effective. See *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 651 (1973).

The new data accepted by the agency as demonstrating a central mechanism of action for diphenhydramine hydrochloride as an antitussive are not in the public domain. General recognition of the effectiveness of a drug, however, must be based on adequate published or publicly available medical and scientific data. (*United States* v. *41 Cases * * * Naremco*, 420 F. 2d 1126 (C.A. 5, 1970); *United States* v. *An Article of Drug * * * Mykocert*, 345 F. Supp. 571 (D.C. 1972); *United States* v. *An Article of Drug * * * Asper Sleep*, CCH F.D. and Cosm. L. Rep. 40,821 Civil No. 70–C–196 (N.D. Ill. 1971); *United Stated* v. *An Article of Drug * * * Furestrol Vaginal Suppositories* 294 F. Supp. 1307 (N.D. Ga. 1968).) Therefore, even though diphenhydramine hydrochloride has been shown, on the basis of proprietary information, to be safe and effective as required by 21 U.S.C. 355(d), there is not adequate information publicly available at this time to demonstrate that it is generally recognized as effective. Because the agency is unable to conclude at this time that diphenhydramine hydrochloride is generally recognized as effective as an OTC antitussive, FDA is proposing that it be Category III. Category III status at the tentative final stage of this rulemaking or nonmonograph status at the final stage of this rulemaking will not affect the legal OTC marketing of this drug under an approved NDA. Therefore, the present OTC marketing of Benylin under an approved supplemental NDA will not be changed by this rulemaking.

With respect to the issue of safety, the agency continues to agree with the Commissioner's discussion in the Benylin matter quoted above. Therefore, FDA tentatively concludes that diphenhydramine hydrochloride, with appropriate warnings, can be generally recognized as safe.

In a related matter, the agency recently responded to a petition seeking FDA's determination that diphenhydramine hydrochloride as an active ingredient in OTC antitussive drug products is generally recognized as safe and effective (Refs. 5 through 8). The agency advised the petitioner that diphenhydramine hydrochloride as an ingredient in OTC antitussive drug products at this time is not generally recognized as safe and effective and continues to be a "new drug" as defined in 21 U.S.C. 321(p). Therefore, at present diphenhydramine hydrochloride cannot be lawfully marketed as an OTC antitussive in the absence of an approved NDA (Ref. 9).

References

(1) Lilienfield, L.S., Protocol 184–35, draft of unpublished data, OTC Volume 040298.

(2) Summers, W. R., Protocol 184–36, draft of unpublished data, OTC Volume 040298.

(3) Walters, P. C., Supplemental Medical Review of January 22, 1981, NDA 6–514, OTC Volume 04TTFM, Dockets Management Branch.

(4) Letter from M. J. Finkel, FDA, to Warner-Lambert Company, NDA 6–514, OTC Volume 04TTFM, Dockets Management Branch.

(5) Comment No. CP, Docket No. 76N–052T, Dockets Management Branch.

(6) Comment No. C00190, Docket No. 76N–052T, Dockets Management Branch.

(7) Comment No. RC, Docket No. 76N–052T Dockets Management Branch.

(8) Comment No. RC0002, Docket No. 76N–052T, Dockets Management Branch.

(9) Letter from J. P. Hile, FDA, to R. N. Anderson, Vicks Health Care Division of Richardson-Vicks, Inc., coded PDN001, Docket No. 76N-052T, Dockets Management Branch.

11. One comment objected to permitting antitussive preparations containing ethylmorphine hydrochloride to be available for OTC use. The comment argued that ethylmorphine should be restricted to prescription status because the abuse potential would be high if it is permitted in OCT antitussive drug products.

The agency disagrees with the comment and concurs with the Panel's conclusion that ethylmorphine hydrochloride is safe "in the dose range used as an antitussive" (41 FR 38347). The agency recognizes, as did the Panel, that the possibility of abuse of ethylmorphine hydrochloride exists. Ethylmorphine is the ethyl ether of morphine and its pharmacologic properties, including its abuse potential, are similar to codeine, which is the methyl ether of morphine. Because of this, ethylmorphine hydrochloride is currently subject to DEA and FDA regulations. The regulations at 21 CFR 329.20 and at CFR 1306.32 provide for the OTC dispensing of ethylmorphine without a prescription under the same conditions that codeine may be dispensed OTC. (See comment 8 above.) In addition, § 329.20(a)(5) limits the amount of ethylmorphine or its salts that may be marketed without prescription to not more than 16.2 mg per 29.5729 mL or per 28.3 g.

Based on these regulations and the Panel's recommendations, the agency concludes that it is not necessary to restrict ethylmorphine hydrochloride to prescription status as proposed by the comment. However, the Panel questioned the effectiveness of ethylmorphine hydrochloride for use as an OTC antitussive and determined that additional data are needed to demonstrate its effectiveness. The agency agrees with this conclusion and is classifying ethylmorphine hydrochloride in Category III in this document.

12. One comment submitted data from two new studies and requested that eucalyptus oil be reclassified from Category III to Category I for OTC topical antitussive use in the form of a lozenge (Ref. 1).

The agency has reviewed the two studies (CFD 76-49R and CFD 77-59) and concludes that the data do not justify reclassifying eucalyptus oil from Category III to Category I for OCT antitussive use in the form of a lozenge because they do not conclusively demonstrate the effectiveness of eucalyptus oil.

Study CRD 76-49R was a singly-blind, induced-cough, crossover study involving 36 normal subjects challenged with acetic acid aerosol. The study compared the antitussive effect of eucalyptus oil alone, menthol alone, the combination of menthol and eucalyptus oil, and a vehicle control. The agency's analysis of the results showed that eucalyptus oil in a lozenge produced significant reductions in cough counts as compared with placebo at time intervals of 10, 30, and 50 minutes. The agency concludes that study CRD 76-49R is supportive, but it does not establish the antitussive effectiveness of eucalyptus oil in a lozenge dosage form. The Panel determined that induced-cough studies of this kind are not adequate alone to demonstrate the effectiveness of an antitussive ingredient, and the agency concurs.

In the second study, CRD 77-59, the antitussive effectiveness of 0.15 percent eucalyptus oil was compared with a control lozenge in 48 chronic bronchitis patients using cough-recording procedures. The agency's analysis of the results indicated that the antitussive effectiveness of eucalyptus oil was not adequately demonstrated. The study showed a reduction in cough of approximately 2 percent with the eucalyptus oil as compared to the control, but this reduction occurred only in the afternoon and amounted to approximately one less cough per hour. A statistical evaluation showed no significant differences in the reduction of cough counts or cough components at any time.

Based on these data, the agency concludes that the topical antitussive effectiveness of eucalyptus oil has not been established and that this ingredient does not cause a significant reduction in cough. Therefore, the agency is proposing in this tentative final monograph that eucalyuptus oil as an antitussive in lozenge form remain in Category III.

The agency's detailed comments and evaluation of the data are on file in the Dockets Management Branch (Refs. 2 and 3).

References

(1) Comment Nos. SUP009, SUP011, and SUP012, Docket No. 76N-0052, Dockets Management Branch.

(2) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET069, Docket No. 76N-052T, Dockets Management Branch.

(3) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET080, Docket No. 76N-052T, Dockets Management Branch.

13. One comment requested reclassification of eucalyptus oil from Category III to Category I as an antitussive for topical use in an ointment to be rubbed on the chest and submitted new data from two studies to show the effectiveness of this ingredient (Ref. 1).

The agency has reviewed the data and concludes that they are insufficient to support the reclassification of eucalyptus oil as a single ingredient from Category III to Category I for this use. Neither study dealt specifically with eucalyptus oil as a single ingredient and instead dealt with an ointment containing the volatile substances menthol, spirits of turpentine, camphor, cedar leaf oil, myristical oil, thymol, and 1.3 percent eucalyptus oil; camphor in petrolatum ointment; and menthol in petrolatum ointment. Consequently, these data do not demonstrate the effectiveness of eucalyptus oil alone as an antitussive.

In addition to reviewing the new data, the agency has reevaluated the data and information that were submitted to the Panel concerning the antitussive effectiveness of eucalyptus oil in an ointment to be rubbed on the chest. The agency's analyses of these data agree with the Panel's evaluation that the effectiveness of eucalyptus oil in ointment form has not been demonstrated. Only two of the studies (CRD 74-19/B and CRD 74-64) submitted to the Panel evaluated the antitrussive effective of eucalyptus oil as a single ingredient in the form of an ointment (Refs. 2 and 3).

Study CRD 74-19/B was a single-blind, placebo-controlled, crossover, induced-cough study involving 32 normal subjects. The Panel concluded that study CRD 74-19/B is supportive but not sufficient evidence of the claimed antitussive effectiveness of eucalyptus oil used in the form of an ointment. The Panel determined that induced-cough studies of this kind are not adequate alone to demonstrate the effectiveness of an antitussive ingredient, and the agency concurs.

Study CRD 74-64 was a single-blind, placebo-controlled, crossover study involving 27 patients with chronic bronchitis considered to have been stable for 6 months. The Panel concluded that the results did not demonstrate the antitussive effectiveness of eucalyptus oil in ointment form and the agency concurs with this finding.

The agency concludes that eucalyptus oil should remain in Category III for

topical antitussive use in the form of an ointment. Because no data were submitted on eucalyptus oil for use as an antitussive in a steam vaporizer, eucalyptus oil for this use also remains in Category III.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Ref. 4).

References

(1) Comment No. SUP008, Docket No. 76N-0052, Dockets Management Branch.

(2) Packman, E. W., "Antitussive Screening: Citric Acid Aerosol Technique," (Studies CRD 74-19/A and B), draft of unpublished data, OTC Volume 040298, Dockets Management Branch.

(3) Dennis, S. R. K., et al., "Medical Report on a Study to Evaluate the Effects of Vicks VapoRub as Compared to Those of Oil of Eucalyptus and a Petrolatum Placebo," (Study CRD 76-64), Draft of unpublished data, OTC volume 040298, Dockets Management Branch.

(4) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET077, Docket No. 76N-052T, Dockets Management Branch.

14. A comment representing the views of the staff of the Bureau of Consumer Protection of the Federal Trade Commission (FTC) requested that the active ingredients eucalyptol, menthol, and thymol used as an antitussive or nasal decongestant in a mouthwash dosage form be classified as Category II. The comment pointed out that after more than 4 months of adjudicative hearings, during which voluminous evidentiary records consisting of thousands of pages of expert testimony and exhibits were thoroughly examined for a marketed product with labeling and advertising claims that the product cured or prevented colds or sore throat, or lessened the severity or incidence of colds, cold symptoms, or sore throats by killing germs (Ref. 1), the FTC determined that 0.91 mg of eucalyptol per milliliter (mL) of product (mg/mL), 0.42 mg/mL menthol, and 0.63 mg/mL thymol in a mouthwash solution are insufficient in concentration to provide relief for the symptoms of the common cold, including nasal congestion and cough. Expert medical and scientific witnesses testified that the process of gargling with a mouthwash containing these ingredients does not allow the ingredients to reach the critical areas of the body they need to reach to relieve the symptoms of a cold, nor do the ingredients penetrate the infected cells, where the action of the cold viruses would be taking place.

The comment stated that the FTC's conclusion, after examining the records and hearing expert testimony, was consistent with the Panel's findings that there are no well-controlled studies documenting the effectiveness of eucalyptol, menthol, and thymol when used in a mouthwash dosage form ans an antitussive or nasal decongestant. The comment pointed out that the FTC's opinion and supporting evidence were not available to the Panel during its deliberations. Therefore, the comment requested that the FDA review the FTC's opinion and the supporting evidence and use them as a basis to classify eucalyptol, menthol, and thymol in Category II for use as an antitussive or nasal decongestant in a mouthwash dosage form.

The response in this document addresses only the antitussive use of these ingredients. The nasal decongestant use will be addressed in a future issue of the **Federal Register**. The agency has reviewed the FTC's opinion and supporting evidence (Ref. 1). Medical and scientific experts testified at the FTC hearing that there is an absence of literature showing that the combination of eucalyptol, menthol, and thymol in a mouthwash dosage form is effective in preventing colds and alleviating cold symptoms such as nasal congestion and cough. These experts in the fields of respiratory and infectious diseases, virology, pharmacology, and microbiology further stated, based upon their knowledge in their respective areas, that it is doubtful that these ingredients would be effective in treating symptoms of the common cold.

Although the Panel did not have access to the FTC's opinion and supporting evidence, it did review the St. Barnabas study, which was one of the studies discussed during the FTC hearing (Ref. 2). The St. Barnabas study was undertaken to demonstrate the effect of rinsing and gargling twice daily with an aqueous mixture of 0.91 mg/mL eucalyptol, 0.42 mg/mL menthol, and 0.63 mg/mL thymol on the incidence, duration, and severity of the common cold and its symptoms. It was a 4-year subjective study in over 4,800 schoolchildren. The experts who testified at the FTC hearing agreed that the deficiencies in the design and execution of the study precluded any meaningful interpretation of the results. The FTC concluded that the design and execution of the tests heavily biased the results in favor of the manufacturer, and therefore the tests could not support the advertising claims. The Panel concluded that although the study was not well-controlled and could not be considered proof of effectiveness, the results did reveal milder nasal symptoms and cough symptoms in individuals using the medicated mouthwash as compared with these symptoms in individuals using the placebo. Because this study did not demonstrate the effectiveness of the individual antitussive ingredients, the Panel recommended that data to demonstrate effectiveness of each ingredient alone be required in accordance with its guidelines for testing OTC antitussive drug products (41 FR 38354 to 38355). Because safety was not at issue, and the data suggested the possibility that the combination of eucalyptol, menthol, and thymol was effective as an antitussive in a mouthwash dosage form, the Panel believed that a Category III classification was justified.

At the tentative final monograph stage, FDA usually proposes Category II status for an ingredient because there is a potential safety problem or because there are essentially no data to support the ingredient's effectiveness for its purported use. Although medical and scientific experts testified for the FTC that is is unlikely that euaclyptol, menthol, and thymol in a mouthwash would be effective as an antitussive, they also stated that the studies that were done contained defects which made the results inconclusive. In view of the inconclusive results caused by deficiencies in the studies, the agency does not believe it appropriate at this time to classify the drugs as Category II, without allowing interested parties the opportunity to develop a well-controlled study that might demonstrate the drugs' effectiveness. Therefore, the agency is proposing that eucalyptol, menthol, and thymol in a mouthwash dosage form as an antitussive remain in Category III in this tentative final monograph.

In the final monograph, any ingredient that has not been found to be safe and effective will be classified as "nonmonograph" and may not be legally marketed. To date, there have been no new data submitted to support the effectiveness of eucalyptol, menthol, and thymol in a mouthwash dosage form as an antitussive, and if adequate data are not submitted before establishment of a final monograph, these ingredients for this use will be classified as "nonmonograph."

References

(1) Comment No. C0126, Docket No. 76N-0052, Dockets Management Branch.

(2) "The Effect of Listerine Antiseptic on the Incidence, Severity, and Duration of the Common Cold, A 4-Year Study," draft of unpublished study, OTC Volume 040278, section 3.a. (referred to as the St. Barnabas Study in Comment No. C0126), Dockets Management Branch.

15. Two comments requested that 1 to 15 mg of menthol as an antitussive in a

lozenge dosage form be reclassified from Category III to Category I. One comment submitted new data in support of a dosage range of 5 to 10 mg of menthol (Refs. 1 through 8). The second comment contained data in support of a 10-mg menthol lozenge (Ref. 9). Another comment requested Category I status for lozenges containing less than 5 mg of menthol based on data previously reviewed by the Panel (Refs. 10 through 13).

Based on the data above, the agency proposes to classify menthol as a Category I antitussive at a dosage of 5 to 10 mg in a lozenge or compressed tablet dosage form. (See comment 20 below regarding compressed tablets.) The agency concludes that the two studies conducted by Finkel and Zuckerman (Refs. 6 and 7) show menthol to be effective in a lozenge at doses of 5.2 mg and 7.8 mg, respectively. In addition, the data submitted by the second comment show that menthol in a lozenge, at a dose of 10 mg, is an effective topical antitussive (Ref. 9). Based on the results of the studies, the agency concludes that the dosage frequency for lozenges or compressed tablets containing 5 to 10 mg menthol should be every hour instead of the Panel's recommended fequency of every 30 minutes to an hour.

The four studies, submitted in support of a dosage of less than 5 mg of menthol (Refs. 10 through 14), are not acceptable to prove the effectiveness of menthol at this dosage. The major problem in all four studies is that menthol was not studied as a single ingredient. All of the test lozenges contained other ingredients (benzyl alcohol, citric acid, eucalyptus oil, camphor, thymol, tolu balsam) in addition to menthol; thus, any therapeutic effect obtained from the use of the lozenge cannot be attributed to menthol only. The control lozenges did not contain these additional ingredients. Therefore, these studies cannot be considered supportive of the effectiveness of lozenges containing less than 5 mg of menthol. Menthol at less than 5 mg will remain in Category III until adequate data are presented to warrant reclassification to Category I.

In conclusion, the agency proposes to reclassify menthol in a lozenge or compressed tablet at a dose of 5 to 10 mg from Category III to Category I as an antitussive. The directions for menthol are being proposed as follows: Adults and children 2 to under 12 years of age: allow (lozenge or compressed tablet) to dissolve slowly in the mouth. May be repeated every hour as needed or as directed by a doctor. Children under 2 years of age: consult a doctor. Because no data were submitted to support a menthol dose greater than 10 mg, such a dose will remain in Category III.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Refs. 15 through 18).

References

(1) Dennis, S. R. K., P. Bass, and G. doPico, "Victors," (Study CRD No. 75–21), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(2) Dennis, S. R. K., P. Bass, and G. doPico, "Victors," (Study CRD No. 75–26), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(3) Dennis, S. R. K., P. Bass, and G. doPico, "Victors," (Study CRD No. 75–50), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(4) Dennis, S. R. K., P. Bass, and G. doPico, "Victors," (Study CRD No. 76–43), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(5) Packman, E. W., "Victors Cough Drops," (Study CRD No. 76–49R), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(6) Finkel, S., and S. Zuckerman, "Victors," (Study CFD No. 77–58), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(7) Finkel, S., and S. Zuckerman, "Vicks Medicated Cough Drops," (Study CRD No. 78–19), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(8) Comment No. SUP012, Docket No. 76N–0052, Dockets Management Branch.

(9) Comment No. CO181 (Volume 1), Docket No. 76N–0052, Dockets Management Branch.

(10) Packman, E. W., "Vicks Cough Drops," (Study CRD No. 72–64), draft of unpublished study, OTC Volume 040257.

(11) Packman, E. W., "Vick Cough Drops," (Study CRD No. 73–7), draft of unpublished study, OTC Volume 040257.

(12) Packman, E. W., "Vick Cough Drops," (Study CRD No. 73–8), draft of unpublished study, OTC Volume 040257.

(13) Packman, E. W., and S. J. London, "Vicks Cough Drops," (Study CRD No. 71–19), draft of unpublished study, OTC Volume 040063.

(14) Comment Nos. LET067 and SUP011, Docket No. 76N–0052, Dockets Management Branch.

(15) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded ANS 81/01/29 to SUP009, Docket No. 76N–052T, Dockets Management Branch.

(16) Letter from W. E. Gilbertson, FDA, to J. D. Clark, Warner-Lambert Company, coded NAS 81/01/29 to SUP009, Docket No. 76N–052T, Dockets Management Branch.

(17) Memorandum of Meeting, coded MM0003, Docket No. 76N–052T, Dockets Management Branch.

(18) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET081, Docket No. 76N–052T, Dockets Management Branch.

16. One comment requested reclassification of menthol from Category III to Category I as an antitussive for topical use in an ointment to be rubbed on the chest and submitted new data from two studies (Refs. 1 and 2), as well as a reanalysis of data from a study reviewed by the Panel (Ref. 3), to show the effectiveness of this ingredient.

The agency has reviewed the data and concludes that two of the studies are adequate to support the reclassification of menthol to Category I for this use (Refs. 1 and 3). In the first study, the antitussive effectiveness of 2.6 percent menthol in petrolatum was compared with petrolatum alone as a control in 48 patients with chronic cough due to bronchopulmonary disease (Ref. 1). The data indicated that menthol decreased the number of coughs and cough components to a significantly greater degree than the petrolatum control. The agency concludes that this study is acceptable in demonstrating the effectiveness of 2.6 percent menthol as an antitussive in a suitable ointment vehicle to be rubbed on the chest.

In the second study, the antitussive effectiveness of 2.8 percent menthol in petrolatum on artificially induced cough was compared with 5.3 percent camphor in petrolatum; 2.82 percent menthol in a mixture with camphor, eucalyptus oil, thymol, turpentine oil, myristica oil, and cedarleaf oil in petrolatum; and a petrolatum control. Menthol in petrolatum was significantly more effective than petrolatum alone in reducing coughs at 0.5, 1, and 3 hours and marginally more effective at 1.5 hours. The agency's analysis of the studies indicates statistical evidence of the superiority of 2.8 percent menthol over petrolatum alone in reducing cough counts (Ref. 3).

A third study was reviewed by the agency and found not to be supportive of menthol as an antitussive ingredient because there were no significant differences among the four treatment groups studied (Ref. 2).

Based on the evaluation of the first two studies, the agency proposes to reclassify menthol in concentrations of 2.6 to 2.8 percent for topical use in an ointment to be rubbed on the chest from Category III to Category I in this tentative final monograph. The directions for menthol are being proposed as follows: Adults and children 2 to under 12 years of age: rub on the throat and chest as a thick layer. The area of application may be covered

with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

The agency notes that in the submitted studies the ointment was used on the anterior chest and not on the back. Therefore, the Panel's recommended direction for use that provides for menthol to be "rubbed on the back" is not being reclassified as Category I, but remains in Category III. Because no data were submitted on menthol for use as an antitussive in a steam vaporizer, menthol for this use also remains in Category III.

The warning "For external use only. Do not take by mouth or place in nostrils" is being proposed in the "Warnings" section of this tentative final monograph. The Panel recommended that such a warning be included in the required labeling for antitussive drug products containing menthol that are used in the form of an ointment, and the agency concurs.

The agency's detailed comments and evaluation of the data are on file in the Dockets Management Branch (Ref. 4).

References

(1) Finkel, S., and S. Zuckerman, "Antitussive Effectiveness: Chronic Cough Counting," (Study CRD 78–14), draft of unpublished study, Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(2) Dennis, S. R. K., P. Bass, and G. doPico, "VapoRub," (Study CRD 76–41), draft of unpublished study, Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(3) Packman, E. W., "Antitussive Screening: Citric Acid Aerosol Technique," (Studies CRD 74–19/A and B), reanalysis of data, Comment CR0004, Docket No. 76N–0052, Dockets Management Branch.

(4) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET079, Docket No. 76N–052T, Dockets Management Branch.

17. One comment disagreed with the Panel's conclusion that there are insufficient data to determine the effectiveness of noscapine for OTC use as an antitussive and requested that it be reclassified from Category III to Category I. The comment contended that a lack of current studies persuaded the Panel to place noscapine in Category III and to recommend that two additional studies be conducted to establish its effectiveness. The comment argued that, although the current studies may have been lacking in quantity, the quality of existing studies clearly shows that noscapine is an effective antitussive. The comment added that, because of the very unusual pharmacological properties of noscapine, the Panel should have considered it as an expectorant as well as an antitussive. (A discussion of this ingredient as an expectorant is included in comment 16 in the proposed rule for anticholinergic and expectorant drug products published in the **Federal Register** of July 9, 1982 (47 FR 30007).) The comment pointed out that noscapine has been shown to have the significant advantage of facilitating expectoration and stimulating the production of bronchial mucus, while suppressing nonproductive cough in certain disease states such as asthma, and cited a study in support of this activity (Ref. 1).

The agency has reviewed the Panel's findings regarding the Category III status of noscapine as an antitussive and notes that the Panel concluded that effectiveness has not been established by objective methods (41 FR 38352). The Panel cited six references (Refs. 2 through 7) and noted that, although the majority of these reported clinical trials indicate that noscapine is equal to codeine in clinical effectiveness, these studies are subjective. The Panel recommended that objective studies employing cough-counting techniques be required to demonstrate the effectiveness of antitussives, and the agency concurs. The agency's evaluation of the six studies cited by the Panel confirmed that none of these studies include objective cough-counting methods.

The agency has reviewed the reference cited by the comment in which noscapine hydrochloride was administered intravenously to 50 surgical patients in a dosage of 3 milligrams per kilogram (mg/kg) body weight (Ref. 1). Doses were administered before the induction of anesthesia or at the end of anesthesia. The cough reflex was not completely removed, and foreign matter in the laryngeal or bronchial areas was coughed up. The researchers concluded that "It appears that this drug should be given an extended trial in any situation where a reduction of the cough reflex is desirable."

The study assessed only the intravenous use of noscapine in surgical patients as an antitussive. The study did not use cough-counting techniques. The agency does not consider this study appropriate to demonstrate the effectiveness of noscapine taken orally as an OTC antitussive. The agency also notes that "AMA Drug Evaluations" states that noscapine has been shown to be effective in some studies, but evidence is insufficient to determine its relative effectiveness conclusively (Ref. 8). "AMA Drug Evaluations" cited a report by Eddy et al. (Ref. 9), which states that clinical reports and judgments of noscapine as an antitussive have been few and trials have generally been poorly controlled. Those that are availabe represent mainly the impressions gained by the investigators.

The agency is unaware of any recent studies which would establish the effectiveness of noscapine as an antitussive; therefore, based on the available evidence, the agency is proposing that noscapine remain in Category III for OTC use as an antitussive.

References

(1) Loder, R. E., "Safe Reduction of the Cough Reflex with Noscipine," *Anaesthesia*, 24:355–358, 1969.

(2) Segal, M. S., M. M. Goldstein, and E. O. Attinger, "The Use of Noscapine (Narcotine) as an Antitussive Agent," *Diseases of the Chest*, 32:305–309, 1957.

(3) Janschulte, B., "Experience with Narcompren, a New Antitussive," (English translation), ("Erfahrungen mit Narcompren, einem neuen Hustenmittel"), *Medizinische Klinik*, 42:1788–1789, 1955.

(4) Peeters, E. G., "Antitussive Properties of Noscapine," (English translation), ("Les Proprietes Antitussives de la Noscapine"), *Le Scalpel*, 114:945–954, 1961.

(5) General Practitioner Research Group, Report No. 21, "General Practitoner Clinical Trials. A Long Acting Antitussive Preparation," *The Practitioner*, 188:249–252, 1962.

(6) Bergmann, M., and H. Stolzer, "Clinical Experience with Narcotine as a Cough Suppressant," (English translation), ("Klinische Erfahrungen mit 'Narkotin' als hustenreizstillendes Mittel"), *Wiener Medizinische Wochenschrift*, 106:232–233, 1956.

(7) Blankart, R., "Clinical Experience with an Antitussive Containing Narcotine," (English translation), ("Klinische Erfahrungen mit einem narcotinhaltigen Hustenmittel"), *Therapeutische Umschau*, 20:403–406, 1963.

(8) "AMA Drug Evaluations," 4th Ed., John Wiley and Sons, Inc., New York, p. 468, 1980.

(9) Eddy, N. B., et al., "Codeine and Its Alternatives for Pain and Cough Relief. 4. Potential Alternates for Cough Relief," *Bulletin of the World Health Organization*, 40:639–719, 1969.

D. Comments on Dosages for Antitussive Active Ingredients

18. One comment cited articles on camphor poisoning in children (Refs. 1 and 2) and recommended that the camphor content of OTC antitussives be limited to less than 0.75 g camphor per 30 g of final product or to less than 2.5 percent (weight/volume). The comment stated that there is no evidence that warning statements deter childhood

poisoning and concluded that this lower concentration would reduce the risk of serious accidental poisoning while still permitting an adequate concentration of camphor.

The Panel found camphor safe when applied topically or as an inhalant at certain concentrations, but recommended a Category III classification based on insufficient data to permit final classification of its effectiveness when labeled for use as an antitussive (41 FR 38344). For adults and children 2 to under 12 years of age, the Panel recommended Category III labeling for the use of camphor in the form of a 5-percent ointment preparation, a 7-percent solution for steam inhalation, or a lozenge containing 0.02 to 15 mg camphor. Following publication of the Panel's recommendations on camphor, the Advisory Review Panel on OTC Miscellaneous External Drug Products (Miscellaneous External Panel) also reviewed camphor. The Miscellaneous External Panel, however, concluded that OTC products containing greater than 2.5 percent camphor have a low benefit-to-risk ratio and recommended that camphor be limited in OTC drug products for external use to less than 2.5 percent (45 FR 63874). The Miscellaneous External Panel also recommended that the total quantity of camphor in a package be limited to 360 mg and stated that a child-proof container would deter childhood poisoning.

Because of the conflicting recommendations on camphor-containing drug products, the agency announced in the **Federal Register** of September 26, 1980 (45 FR 63874) that it is treating the data and information on camphor received from the Miscellaneous External Panel as a petition to reopen the administrative record on cold, cough, allergy, bronchodilator, and antiasthmatic drug products. The agency subsequently granted this petition by allowing those data and information to be included in the administrative record for these drug products. This notice served to inform interested persons of the existence of these recommendations and also invited persons or firms to submit any comments they may have. One manufacturer submitted a comment in response to the data information received from the Miscellaneous External Panel and requested that this Panel's recommendations concerning reduction in the concentration of camphor and limitation of the amount of camphor contained in a package be rejected (Ref. 3). This reopening of the administrative record related only to the ingredient camphor in OTC drug products.

The agency is proposing to classify camphor in concentrations for 4.7 to 5.3 percent in an ointment to be rubbed on the chest in Category I as an antitussive. (See comment 5 above.) The agency has reviewed the Panel's varying recommendations and determined that there is little likelihood of childhood poisonings occurring from camphor being available OTC in a 4.7 to 5.3 percent concentration in an ointment dosage form. Most of the poisonings that have occurred with camphor preparations have occurred with liquid products and not with camphor in an ointment. Therefore, the agency sees no reason to limit the quantity of camphor to 360 mg in such products labeled for antitussive use. Manufacturers are, however, encouraged voluntarily to use child-proof containers to reduce the possibility of young children inadvertently getting into such products.

References

(1) Aronow, R. J., "Camphor Poisoning," *Journal of the American Medical Association*, 235:1260, 1976.

(2) Phelan, W. J., "Camphor Poisoning: Over-the-Counter Dangers," *Pediatrics*, 57:428–431, 1976.

(3) Comment No. C00165, Docket No. 76N-0052, Dockets Mangement Branch.

19. One comment from a pediatrician objected to the use of codeine antitussives in children. The comment stated that there is little, if any, indication for cough suppression in respiratory diseases of children. The comment recommended that the labeling of codeine antitussives should not allow their use in children under 12 years of age. Another pediatrician has expressed concern to FDA about the use of codeine-containing antitussives in young children (Ref. 1).

The agency recognizes that antitussives should not be used indiscriminately in children. The Panel stated that antitussives are beneficial to suppress an irritative cough associated with a self-limiting respiratory tract infection that is usually viral in nature or that follows the inhalation of irritant gases or dusts (41 FR 38321). The Panel believed that OTC antitussive drug products could be rationally used for this type of cough and used safely in children over 2 years of age.

In response to the two pediatricians' concerns about the use of codeine-containing antitussives in young children, the agency requested the American Academy of Pediatrics (AAP) to make recommendations on this issue. The AAP based its recommendations on a poll of the members of its Committee on Accident and Poison Control and a number of directors of pediatric outpatient departments in hospitals and on a review of case histories of adverse reactions to codeine in young children (Ref. 2). AAP stated in its report to FDA that "We believe there is a preponderance of evidence that codeine-containing cough syrups can be hazardous to young children, even in prescribed doses."

Young children 2 to 5 years of age appear to be most vulnerable to serious adverse reactions to codeine. Respiratory arrest, coma, and death have been reported in this age group following codeine doses of 5 to 12 mg/kg body weight (Refs. 3, 4, and 5). Although the Panel provided recommended doses of codeine for children 2 to under 12 years of age, the AAP's belief that "codeine-containing cough syrups can be hazardous to young children, even in prescribed doses" and the data on adverse reactions in children 2 to 5 years of age raise questions concerning the safety of administering codeine to children under 6 years of age on an OTC basis.

Because the agency has received two varying recommendations on this dose, at this time the agency is taking a more conservative approach and is proposing that a codeine dose for children 2 to under 6 years of age be provided in professional labeling only. Labeling of OTC codeine-containing antitussives would not contain a recommended dose for this age group, but would include the following statement: Children 2 to under 6 years of age: consult a doctor. The agency invites specific comment on this proposal.

The AAP has recommended a codeine dose for young children of 1 mg/kg body weight in four divided doses, not to exceed 60 mg/day. The agency notes that there are no documented cases of serious adverse reactions in children at the AAP's recommended dose in the literature, in the National Clearinghouse for Poison Control Center data, or in the FDA adverse reaction reporting system (Ref. 3). The AAP also recommended including a calibrated measuring device in the package of a codeine-containing antitussive drug product that is intended to be used in young children. The agency agrees with the AAP that codeine should be used in children under 6 years of age at no higher dose than 1 mg/kg body weight per day and that because of the seriousness of possible adverse reactions due to inadvertent overdose caused by inaccurate measuring of the dose, the use of a calibrated measuring device to

administer this dose is necessary. Accordingly, the agency is proposing the following paragraphs under § 341.90(p) of the professional labeling section of the monograph.

(1) Children 2 to under 6 years of age: oral dosage is 1 milligram per kilogram body weight per day administered in four equal divided doses. The average body weight for each age may also be used to determine dosage as follows: for children 2 years of age (average body weight, 12 kilograms), the oral dosage is 3 milligrams every 4 to 6 hours, not to exceed 12 milligrams in 24 hours; for children 3 years of age (average bodyweight, 14 kilograms), the oral dosage is 3.5 milligrams every 4 to 6 hours, not to exceed 14 milligrams in 24 hours; for children 4 years of age (average body weight, 16 kilograms), the oral dosage is 4 milligrams every 4 to 6 hours, not to exceed 16 milligrams in 24 hours; for children 5 years of age (average body weight, 18 kilograms), the oral dosage is 4.5 milligrams every 4 to 6 hours, not to exceed 18 milligrams in 24 hours. If age is used to determine the dose, the directions must include instructions to reduce the dose for low-weight children.

(2) Parents should be instructed to use a calibrated measuring device to give the drug to the child, to use extreme care in measuring the dosage, and not to exceed the recommended daily dosage.

(3) A dispensing device (such as a dropper calibrated for age or weight) for use in children 2 to under 6 years of age must be distributed to all professionals (doctors and pharmacists) to be dispensed along with the product to prevent possible overdose due to improper measuring of the dose.

References

(1) Letter from L. Finburg, Montefiore Hospital and Medical Center, Albert Einstein College of Medicine of Yeshiva University, to M. J. Finkel, FDA, OTC Volume 04TTFM, Docket No. 76N-052T, Dockets Management Branch.

(2) Letter to M. M. Freeman, FDA, from J. D. Lockhart, American Association of Pediatrics, OTC Volume 04TTFM, Docket No. 76N-052T, Dockets Management Branch.

(3) Segal, S., et al., American Academy of Pediatrics, Committee on Drugs, "Use of Codeine- and Dextromethorphan-Containing Cough Syrups in Pediatrics," *Pediatrics*, 62:118-121, 1978.

(4) Von Muhlendahl, K. E., et al., "Codeine Intoxication in Childhood," *Lancet*, 2:303-305, 1976.

(5) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listings," pertinent pages for the years 1969-1981, OTC Volume 04TTFM, Docket No. 76N-052T, Dockets Management Branch.

20. One comment objected to the Panel limiting eucalyptol, menthol, and thymol to lozenge and mouthwash dosage forms when these ingredients are present in products used as "oral (topical)" antitussives. The comment contended that this limitation is arbitrary since viscous syrups and compressed tablets (in contrast to boiled candy base lozenges) are just as effective as mouthwashes and lozenges. The comment recommended that an "oral (topical) dosage" form of eucalyptol, menthol, and thymol include any oral dosage form that is topically effective and that can be formulated to contain the same concentrations of these ingredients which are allowed for lozenges.

The agency agrees that compressed tablets and syrups could also be used as dosage forms for antitussive products containing eucalyptol, menthol, or thymol, in addition to the lozenge and mouthwash dosage forms recommended by the Panel once these ingredients in specific dosage forms have been reclassified in Category I. It should be noted that the Panel concluded that these ingredients are peripherally acting antitussive agents acting on the nerve receptors within the respiratory tract (41 FR 38338). The local anesthetic effect of these ingredients have been the justification for their inclusion in various products for alleviation of cough (41 FR 38350). However, the agency points out that eucalyptol and thymol are Category III ingredients, which, although found safe by the Panel, lack adequate data to demonstrate their effectiveness as antitussives. Data to demonstrate effectiveness are required in order to permit final classification of these ingredients in the monograph for this use. Menthol for topical antitussive use as a lozenge or compressed tablet in a dosage of 5 to 10 mg has been reclassified from Category III to Category I (see comment 15 above); however, additional data are necessary to demonstrate the antitussive effectiveness of menthol in other dosage forms, e.g., a syrup.

21. One comment pointed out that the Panel's recommended dosage ranges for menthol in lozenge form when used as an antitussive (dosage range—1 to 15 mg), as an expectorant (dosage range—1 to 12 mg), and as a nasal decongestant (dosage range—1 to 10 mg) do not have the same maximum dosage. The comment stated that the dosage range for these three uses were based substantially on the same reference information and that the relative safety in lozenge form between these three maximum doses was not commented upon by the Panel. The comment recommended that 15 mg per lozenge be the maximum dosage recognized for these three uses at the Category III stage.

Menthol for use as a topical antitussive in a lozenge or compressed tablet dosage form has been reclassified as Category I in a dosage range of 5 to 10 mg. (See comment 15 above.) However, menthol remains a Category III ingredient for nasal decongestant and expectorant use. Because further testing is necessary to determine the effective dosages and/or final classification for these two indications, the agency finds no need to change the Panel's recommended dosages for these uses at this time.

E. Comments on Labeling of Antitussive Drug Products

22. One comment contended that manufacturers should be able to include in the labeling of antitussive drug products terms that are included in the Panel's definition of an "antitussive" in § 341.3(f). The comment pointed out that of the three verbs in the definition—"inhibits," "controls," and "suppresses"—no form of "inhibits" is allowed in the indications labeling for antitussives.

The agency agrees that manufacturers should have the option to use the verbs "controls" and "suppresses" in addition to the terms "alleviates," "decreases," "relieves," "quiets," "calms," and "reduces," and the phrase "helps you cough less" in the indications for antitussives when they are appropriate and has included them in the proposed monograph. However, the agency believes that the term "inhibits" may imply to consumers that an OTC antitussive has the ability to eliminate cough completely and is therefore not including the term "inhibits" in the indications section of the proposed monograph.

The agency is also simplifying the definition of "antitussive drug" in the monograph to include definitions for "oral antitussive" and "topical antitussive" respectively, to read as follows: "A drug that is taken by mouth and acts systemically to relieve cough" and "a drug that relieves cough when applied topically to the throat or chest in the form of an ointment or dissolved in the mouth in the form of a lozenge or compressed tablet." The agency believes that the simplification and separation of definitions for oral and topical antitussives provides clearer and more concise definitions for these drug products.

23. One comment quoted the Panel's statement on cough as follows:

"Medications which suppress the act of coughing by reducing * * * the intensity of coughing are known as antitussive drugs (41 FR 38321)," and complained that the Panel's recommended monograph stated that a manufacturer may not make a labeling claim that refers to a reduction "in the intensity of coughing" although the Panel used this phrase in its discussion of cough.

The agency agrees that a phrase referring to the reduction of the intensity of coughing is appropriate in the labeling of antitussive drug products and has therefore added a statement including this phrase in the indications section of the proposed monograph.

24. One comment stated that the Panel allowed a claim for "cooling" to be made for topical nasal decongestants for which the effect can be substantiated, e.g., menthol or other volatile oils (41 FR 38422). The comment contended that if the "cooling" claim is allowed for methol used as a topical nasal decongestant, it should also be allowed for methol used as an antitussive. The comment recommended that this claim be added to the monograph.

The agency has no objection to the use of terms, such as "cooling," that describe certain physical and chemical qualities of a drug, as long as these terms do not imply that any therapeutic effect might occur, are true and not misleading, and are distinctly separated from labeling indications. Terms describing product characteristics (e.g., color, odor, flavor, and feel) appear in the labeling for consumers' information. The agency concludes that it is not necessary to include terms such as these in the antitussive or nasal decongestant monographs. Accordingly, § 341.80(a)(13) of the Panel's proposed monograph which refers to the cooling sensation demonstrated by topical nasal decongestants will not be included in the tentative final monograph for nasal decongestant drug products which will be published in a future issue of the Federal Register.

25. One comment objected to the Panel's classification of the following statement as Category III in its labeling discussion (41 FR 38354): "Terms relating to sleep such as 'quiets annoying coughs and lets you sleep.' An antitussive is capable of quieting annoying coughs, but has not been demonstrated to be directly related to sleep." The comment stated that, on first inspection, a Category III classification of this claim is inconsistent with the Panel's statement that treatment of cough symptoms is likely to allow normal sleep. However, the comment concluded that this sleep-related claim suggests that the antitussive drug is also a sedative and contended that such claims are unjustified for these drug products at antitussive doses. The comment stated that products containing antitussives and other active ingredients which are not generally recognized as effective sedatives at the recommended doses should not be labeled with a sedative claim.

The Panel stated that terms relating to sleep such as "Quiets annoying cough and lets you sleep" are Category III, and that "An antitussive is capable of quieting annoying cough, but has not been demonstrated to be directly related to sleep" (41 FR 38354). The agency does not believe that the direct relationship between an ingredient and sleep that is required for Category I nighttime sleep-aid claims is necessary to permit this type of useful information to appear in the labeling of OTC antitussive drug products. A statement that clearly relates the ability of an antitussive to quiet an annoying cough that prevents an individual from falling asleep, thereby helping the individual to fall asleep, is reasonable. The agency is therefore proposing the following statement in this tentative final monograph under "Other allowable statements": (Select one of the following: "Alleviates," "Decreases," "Relieves," "Reduces," "Controls," or "Suppresses") (select one of the following: "cough," "the impulse to cough," or "your cough") "to help you get to sleep."

The agency recognizes that there might be a secondary pharmacological action of an antitussive, tantamount to a sedative effect, that helps an individual to sleep. The scientific literature describes slight drowsiness as a side effect for both codeine and dextromethorphan preparations (Refs. 1 through 7). However, the Panel stated that the drowsiness caused by a 20-mg oral dose of codeine, which it placed in Category I as an antitussive, is not significantly greater than that of a placebo (41 FR 38339). The Panel made no mention of drowsiness in its discussion of dextromethorphan, also a Category I antitussive (41 FR 38340). The agency is not aware of data demonstrating that the antitussive ingredients codeine and dextromethorphan could be classified as Category I nighttime sleep-aids or that they require a drowsiness warning. Therefore, sleep-aid claims directly related to the ability of an antitussive ingredient to cause drowsiness, e.g., "For relief of occasional sleeplessness." will remain in Category III.

References

(1) "AMA Drug Evaluations," 3d Ed., Publishing Sciences Group, Littleton, MA, pp. 662–664 and 666–667, 1977.

(2) Bickerman, H. A., "Antitussive Drugs," *in* "Drugs of Choice 1978–1979," edited by W. Modell, C. V. Mosby Co., St. Louis, pp. 461–475, 1978.

(3) Blacow, N. W., and A. Wade, editors, "Martindale: The Extra Pharmacopoeia," 26th Ed., The Pharmaceutical Press, London, pp. 1107–1109 and 1495, 1972.

(4) Cormier, J. F., and B. G. Bryant, "Cold and Allergy Products," *in* "Handbook of Nonprescription Drugs," 6th Ed., American Pharmaceutical Association, Washington, pp. 89–90, 1979.

(5) Osol, A., R. Pratt, and A. R. Gennaro, "The United States Dispensatory," 27th Ed., J. B. Lippincott Co., Philadelphia, pp. 331 and 406, 1973.

(6) Swinyard, E. A., "Analgesics and Antipyretics," *in* "Remington's Pharmaceutical Sciences," 16th Ed., edited by A. Osol et al., Mack Publishing Co., Easton, PA, pp. 1046–1047, 1980.

(7) Swinyard, E. A., "Respiratory Drugs," *in* "Remington's Pharmaceutical Sciences," 16th Ed., edited by A. Osol et al., Mack Publishing Co., Easton, PA, pp. 808–809, 1980.

26. One comment was opposed to the Panel's recommended restriction of OTC antitussives to nonproductive cough when the underlying disease stimulating the cough is a cold. The comment stated that it was not aware of any "evidence that productive cough due to a cold will become debilitating if treated with an antitussive, nor that the recommended OTC doses of the antitussives considered by the Panel restrict the physiological cough stimulated by such mucous secretions."

The agency agrees with the Panel's recommendations. The purpose of a productive cough is to remove irritants, such as mucus, or foreign material from the respiratory tract. The agency's primary concern in limiting the use of antitussives to nonproductive cough is to decrease the possibility that OTC cough suppressants will be used in the presence of serious diseases such as asthma, emphysema, chronic bronchitis, and cystic fibrosis. In diseases such as these, there is an over-production of secretions which accumulate in the airway. The suppression of cough in these circumstances would impair clearing of the airway and could be harmful.

Furthermore, the symptoms of the common cold in its early stages are very similar to the early stages of diseases such as pneumonia, tuberculosis, pertussis, or measles. It is not possible for the consumer to recognize the cause of a productive cough, and the agency believes that, in the interest of safety, a generalized warning against the use of

antitussives in cough accompanied by excessive phlegm (mucus) is warranted.

The Panel recommended the following warning in § 341.74(b)(2) for antitussive drug products: "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, or emphysema, or where cough is accompanied by excessive secretions except under the advice and supervision of a physician." This warning (redesignated as § 341.74(c)(1)(i) in this tentative final monograph) has been revised for clarity and to conform to the current format of recently published tentative final monographs to read as follows: "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, emphysema, or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor." In addition, the agency recognizes that children under 12 years of age are unlikely to have a chronic cough due to smoking or emphysema and has therefore deleted the words "smoking" and "emphysema" from the above warning for drug products labeled only for children under 12 years of age.

F. Comments on Testing Guidelines

27. One comment from a research laboratory requested that FDA not accept the statement in the Panel's report that questions the accuracy and reliability of the high speed automatic electronic cough counter used in a study on the effectiveness of caramiphen edisylate as an antitussive (41 FR 38345). The comment claimed that the automatic electronic cough counter is reliable and accurate when used to assess the effectiveness of antitussives in patients with chronic, spontaneous cough and requested that this electronic cough-counting system be included as a recommended method in the final guidelines for testing the effectiveness of antitussive drug products.

The agency believes it is not appropriate for it to recommend the use of a particular instrument to evaluate the effectiveness of OCT antitussive drug products. As stated in the **Federal Register** notice of May 13, 1980 (45 FR 31423), tentative final and final monographs will no longer contain recommended testing guidelines. The Panel's testing criteria are considered to be recommendations to the agency; however, studies submitted in support of the effectiveness and safety of a Category III condition are evaluated on their own merits rather than on how well they meet the Panel's requirements. For example, two studies designed to demonstrate the effectiveness of menthol as an antitussive active ingredient were submitted in response to the advance notice of proposed rulemaking. (See Comment Nos. C0018, SUP009, SUP011, and SUP012, Docket No. 76N-0052, Dockets Management Branch.) The agency has reviewed these studies, which included the use of automatic cough-counting systems, and accepted them as demonstrating the effectiveness of menthol as an OTC antitussive active ingredient. The agency emphasizes that each study submitted to support a request for reclassification of a Category III condition to Category I status must substantiate the reclassification whether or not the Panel's recommended guidelines are followed. It is an individual decision of a manufacturer or sponsor of the test whether or not to use an automatic cough-counting system to test antitussives for effectiveness. Before utilizing an electronic high speed automatic counter to test antitussive drug products, the sponsor of such testing may discuss the use of the counter with the agency.

28. One comment pointed out that the Panel indicated that antitussives are best assessed by objective cough-counting techniques and that these drugs can be tested by decreasing induced cough or by decreasing the cough in patients with chronic cough (41 FR 38336). However, in its testing guidelines (41 FR 38355), the Panel described procedures for testing antitussives in patients with a cough due to an acute self-limiting illness, as well as in patients with a cough due to chronic lung disease. The comment recommended that patients with "acute" cough be included in both discussions of the patient populations that the Panel considered appropriate for testing antitussives.

The agency has reviewed the Panel's statement regarding objective cough-counting techniques and notes that it was provided as one of the examples of the different types of studies used by the Panel to assess different drug groups and was merely a statement of fact. The agency believes that the Panel did not intend that this statement should apply to its recommendations concerning the selection of patients for further study of antitussive active ingredients. The agency believes that it is not necessary to relate this statement to the description of patients to be selected for testing the effectiveness of antitussives in the Panel's recommended testing guidelines. Therefore, there is no need to add the term "acute" to the Panel's statement in the testing guidelines. As noted in comment 27 above, and in part II. paragraph A.2. below, the Panel's testing guidelines are considered recommendations to the agency, and manufacturers are not restricted to these guidelines in testing Category II or Category III conditions.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Catetory II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and is proposing to reclassify two antitussive active ingredients from Category III to Category I. In addition, two antitussive active ingredients (benzonatate and chlophedianol hydrochloride), previously marketed as prescription drugs, that were not reviewed by the Panel are being proposed as Category I ingredients. (See agency change 2 below and comment 4 above.) For the convenience of the reader, the following table is included as a summary of the categorization of antitussive active ingredients by the Panel and the proposed classification by the agency.

Antitussive active ingredients	Panel	Agency
Beechwood creosote	III	III.
Benzonatate	(1)	I.
Camphor (topical inhalant):		
Ointment	III	I.
Lozenge	III	III.
Steam inhalation	III	III.
Caramiphen edisylate	III	III.
Carbetapentane citrate	III	III.
Chlophedianol hydrochloride	(1)	I.
Cod liver oil	III	III.
Codeine	I	I.
Codeine phosphate		
Codeine sulfate		
Dextromethorphan	I	I.
Dextromethorphan hydorbromide		
Diphenhydramine hydrochloride	I	III.
Elm bark	III	III.
Ethylmorphine hydrochloride	III	III.
Eucalyptol/eucalyptus oil:		
Topical/inhalant		
Ointment	III	III.
Lozenge	III	III.
Mouthwash	III	III.
Steam inhalation	III	III.
Horehound (horehound fluid extract)	III	III.
Hydrocodone bitartrate	II	II.
Menthol/peppermint oil (topical/inhalant):		
Ointment	III	I.
Lozenge or compressed tablets:		
(a) 5 to 10 mg	III	I.
(b) less than 5 mg, greater than 10 mg	III	III.
Mouthwash	III	III.
Steam inhalation	III	III.
Noscapine	III	III.
Noscapine hydrochloride		
Thymol (topical/inhalant):		
Ointment	III	III.
Lozenge	III	III.
Room spray	III	III.
Mouthwash	III	III.
Steam inhalation	III	III.
Turpentine oil (spirits of turpentine):		
(a) Oral	II	II.
(b) Topical/inhalant:		
Ointment	III	III.
Steam inhalation	III	III.

[1] Not reviewed.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for antitussive drug products (41 FR 38329 and 38355). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any antitussive ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the Federal Register of September 29, 1981 (46 FR 47740) and clarified April 1, 1983 (48 FR 14050). This clarified policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the antitussive section of the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made by the agency follows.

1. The agency has modified the Panel's definition of "antitussive drug" in § 341.3(f) (redesignated as § 341.3(j) and (k)) to include a definition of an "oral antitussive drug" and a "topical antitussive drug." (See comment 22 above.) Also, the agency is modifying the required statement of identity for labeling of oral and topical antitussive drug products from "antitussive" to "cough suppressant" or "antitussive (cough suppressant)." The agency believes that the terms "cough suppressant" or "antitussive (cough suppressant)" will be better understood by consumers than the term "antitussive."

2. Benzonatate has been marketed under an approve NDA for 24 years as a prescription antitussive drug product at a dosage for adults and children over 10 years of age of 100 mg three times daily as required. The package insert states that, if necessary, up to 600 mg daily may be given (Ref. 1). The agency has reviewed the literature concerning the safety and effectiveness of benzonatate as an antitussive ingredient. Based on this review, and the review by the Drug Efficacy Study Implementation Group (DESI) published in the Federal Register of April 29, 1971 (36 FR 8071), the agency is proposing that benzonatate be generally recognized as safe and effective for OCT antitussive use.

The agency has reviewed studies by Herzog (Ref. 2); Naegeli (Ref. 3); Simon (Ref. 4); Wilson, Farber, and Mandel (Ref. 5); Gregoire, Thibaudeau, and Comeau (Ref. 6); Shane, Krzyski, and Copp (Ref. 7); Bickerman and Itkin (Ref. 8); and Simon (Ref. 9) concerning the safety and effectiveness of benzonatate. Several of these studies evaluated products that are marketed under the approved NDA (Refs. 5, 6, 8, and 9). The studies were performed in patients suffering from various acute and chronic pulmonary dysfunctions, such as asthmatic bronchitis and pulmonary emphysema (Refs. 3, 4, 5, and 9), pleural and bronchial irritation (Refs. 2 and 3), and chronic cough due to tuberculosis (Refs. 3, 5 and 6). One study was concerned with acute lower respiratory tract infections that produce an irritative cough (Ref. 3). All of the above studies showed benzonatate to be effective in reducing the frequency of cough in a significant number of patients. Three of the studies were double-blinded (Refs. 5, 6, and 8). One study using a double-blind crossover design showed that benzonatate caused a distinct diminution in cough for a group of tuberculosis patients (Ref. 6).

Three of the studies tested benzonatate against experimentally induced cough in healthy subjects (Refs 6, 7, and 8). One study used a citric acid aerosol to induce the cough and showed that 100 mg of benzonatate was more effective at reducing the frequency of induced cough than one-half grain of codeine (Ref., 7). Benzonatate reduced the frequency of induced cough by 80 percent, while codeine reduced the frequency by 50 percent. A second study using citric acid aerosol was double-blinded and compared benzonatate with 12 other drugs or placebos over a 4-hour test period (Ref. 8). The agency concludes that benzonatate was shown to be an effective antitussive ingredient.

A review of FDA adverse reaction summary reports since 1970 indicated that only a few adverse reactions have been reported in cases when benzonatate was the only drug given (Ref. 11). In only one case (anaphylactoid reaction as a result of the drug dissolving in the mouth) was enough information available to indicate a possible cause-and-effect relationship between benzonatate and the reaction. Because benzonatate has a secondary pharmacologic effect as a local anesthetic, orpharyngeal anesthesia will develop rapidly if the drug is released in the oral cavity. The drug should be marketed in an appropriate dosage form that does not release it into the oral cavity and consumers should be directed not to chew or dissolve the drug product in the mouth. Therefore, the agency is proposing the following directions: "Swallow woithout chewing or dissolving in the mouth. May produce temporary numbness if dissolved in the mouth."

Based on the above data and information and a record of safe and effective use of up to 600 mg daily for 24 years under an approved NDA, the agency believes that benzonatate can be generally recognized as safe and effective for OTC use as an antitussive. However, because benzonatate's effects last for 3 to 8 hours (Ref. 1), the maximum proposed OTC dose will be limited to 400 mg in 24 hours. Therefore, the agency is proposing to include this ingredient in the OTC antitussive tentative final monograph at a dose for adults and children 12 years of age and older of 100 mg in a suitable dosage form that prevents release of the drug in the mouth every 4 to 6 hours, not to exceed 400 mg in 24 hours. The labeling directions and warnings are consistent with the other Category I antitussives.

Although the agency is proposing to switch benzonatate to OTC availability from its present status as a prescription drug, OTC marketing may not begin at this time. Like chlophedianol hydrochloride (see comment 4 above), benezonatate was not considered by the advisory review panel and, therefore, does not meet the terms of the enforcement policy in § 330.13. The agency has also determined that benzonatate is not otherwise appropriate for OTC marketing at this time. FDA believes that public comments submitted in response to the proposed switch in status should be evaluated before OTC markteting is begun. Accordingly, until such comments are reviewed, benezonatate remains a prescription drug subject to the terms and conditions specified in its approved NDA.

References

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Naegeli, H. R., "Klinische Untersuchungen mit einem neuen Hustenbekampfungsmittel," *Praxis*, 45:56–58, 1956.

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(10) Lineback, M., "Benzonatate as Cough and Gag Reflex Suppressive," *Clinical Medicine*, 69:1806–1808, 1962.

(11) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listings," pertinent pages for the years 1970–82, OTC Volume 04TTFM, Docket No. 76N-052T, Dockets Management Branch.

3. The agency has reclassified the antitussive active ingredient camphor from Category III to Category I for topical use in an ointment containing 4.7 to 5.3 percent camphor and added directions for this use to the tentative final monograph. The agency has also added a specific warning relevant to the topical use by adults and children of camphor in ointment preparations (§ 341.74(c)(4) (i) and (ii)). "Directions" for the antitussive use of camphor in an ointment have been added to § 341.74(d)(2)(i) in the tentative final monograph. (See comment 5 above.)

4. The agency has classified chlophedianol hydrochloride in Category I as an OTC antitussive. (See comment 4 above.)

5. The agency has deleted the labeling for OTC use of codeine-containing drug products for use in children 2 to under 6 years of age and has placed revised directions for use in children 2 to under 6 years of age in the professional labeling section of the tentative final monograph. (See comment 19 above.)

6. The agency has deleted § 341.14(c), the reference to § 341.14(c) in § 341.74(a)(7), § 341.74(b)(5) and § 341.90(c)(2) of the Panel's recommended monograph. These sections provided dosages, indications, warnings, and professional labeling for diphenhydramine hydrochloride for use as an antitussive. The agency concludes that general recognition of the effectiveness of this ingredient as an antitussive has not been adequately established. Consequently, the agency has reclassified diphenhydramine hydrochloride in Category III for antitussive use. (See comment 10 above.)

7. The agency has reclassified the antitussive active ingredient menthol from Category III to Category I for use as a lozenge or compressed tablet at a dosage of 5 to 10 mg every hour and in an ointment containing 2.6 to 2.8 percent menthol, and added directions for these uses to the tentative final monograph. The agency has also added a specific warning relevant to the topical use by adults and children of menthol in ointment preparations (§ 341.74(c)(4) (i) and (ii)). "Directions" for the antitussive use of menthol in the form of a lozenge or compressed tablet and an ointment have been added to § 341.74(d)(2) (i), (ii), and (iii) in the tentative final monograph. (See comments 15 and 16 above.)

8. The agency has added to § 341.74 a "Statement of identity" paragraph (designated as § 341.74(a)) and a "Directions" paragraph (designated as § 341.74(d)) to conform with the format of other recently published advance notices of proposed rulemaking and tentative final monographs. Inclusion of the "Statement of identity" paragraph has necessitated a redesignation of the Panel's recommended § 341.74(a) to § 341.74(b), and § 341.74(b) to § 341.74(c). The agency is also redesignating Subpart D as Subpart C and placing the labeling sections of the monograph in Subpart C.

9. Portions of the indications recommended by the Panel have been revised by the agency into statements that may be included in labeling at the manufacturer's option. These statements appear in §341.74(b)(2) in this tentative final monograph under the heading "Other allowable statements." In addition, the agency has also added to monograph under "Other allowable statements," a statement that clearly relates the ability of an antitussive to quiet an annoying cough that prevents an individual from falling asleep, thereby helping the individual to fall asleep. (See comment 25 above).

10. In § 341.74(b) (3) and (5)(iv) the Panel recommended the use of the signal word "Caution" in a section of the labeling where the heading "Warnings" is also recommended. The agency notes that historically there has not been a consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in §§ 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution" are both used. In some instances either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its use should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems. Accordingly, the signal word "Caution" has been deleted from this tentative final monograph.

11. The agency has added warnings that are appropriate for products that are labeled for children under 12 years of age. The agency acknowledges that some warnings which the Panel recommended for all antitussive drug products are inappropriate for products which are labeled for children under 12 years of age. In addition, the warnings for products labeled for children under 12 years of age have been worded to reflect the administration of the product by adults rather than self-administration.

12. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and other applicable OTC drug regulations will give manufacturers the option of using either the word "physician" or the word "doctor." This tentative final monograph proposes that option.

13. The agency has revised § 341.74(c) for clarity by listing the warnings according to ingredient and dosage form (i.e., oral or topical antitussives).

14. The agency has deleted § 341.74(b)(1) and (5)(v) of the Panel's recommended monograph. These sections provided warnings not to give antitussives to children under 2 (or 6) years of age except under the advice and supervision of a physician. The directions provided under new

§ 341.74(d) state clearly that a doctor should be consulted for the use of a particular antitussive drug product in children under certain ages. The agency believes that the Panel's proposed warnings are therefore repetitious and unnecessary.

The agency proposes to revoke the existing warning and caution statements in §§ 369.20 and 369.21, and exemptions for certain drugs limited by NDAs to prescription sale in § 310.201(a)(14) for antitussive drug products at the time that this monograph becomes effective. The agency proposes to revoke § 310.201(a)(20) and to delete carbetapentane citrate from bearing the warning and caution statements required by § 369.21 at the time that this monograph becomes effective if this ingredient is reclassified in Category I as an OTC antitussive in the final monograph.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the Federal Register of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC antitussive drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC antitussive drug products is not expected to pose such an impact on small business. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC antitussive drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC antitussive drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on antitussive drug products, a period of 120 days from the date of publication of this proposed rulemaking in the Federal Register will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of this proposal and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact, and the evidence supporting this finding, is contained in an environmental assessment (under 21 CFR 25.31, proposed in the Federal Register of December 11, 1979; 44 FR 71742), which may be seen in the Dockets Management Branch, Food and Drug Administration.

List of Subjects in 21 CFR Part 341

OTC drugs, Anticholinergics, Expectorants, Bronchodilators, Antitussives.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 341 (proposed in the Federal Register of July 9, 1982; 47 FR 30002) to read as follows:

PART 341—[AMENDED]

1. In Subpart A, § 341.3 is amended by adding and reserving paragraphs (d)–(i) and by adding new paragraphs (j) and (k), to read as follows:

§ 341.3 Definitions.

* * * * *

(d)–(i) [Reserved]

(j) *Oral antitussive drug.* A drug that is taken by mouth and acts systemically to relieve cough.

(k) *Topical antitussive drug.* A drug that relieves cough when applied topically to the throat or chest in the form of an ointment or dissolved in the mouth in the form of a lozenge or compressed tablet.

2. In Subpart B, new § 341.14 is added, to read as follows:

§ 341.14 Antitussive active ingredients.

The active ingredients of the product consist of any of the following when used within the dosage limits and in the dosage forms established for each ingredient in § 341.74(d):

(a) *Oral antitussives.* (1) Benzonatate.

(2) Chlophedianol hydrochloride.

(3) Codeine ingredients.

(i) The following ingredients may be used only in combination in accordance with §§ 329.20(a), 341.40, and 1308.15(b).

(*a*) Codeine.

(*b*) Codeine phosphate.

(*c*) Codeine sulfate.

(4) Dextromethorphan.

(5) Dextromethorphan hydrobromide.

(b) *Topical antitussives.* (1) Camphor.

(2) Menthol.

3. In Subpart C, new § 341.74 is added.

§ 341.74 Labeling of antitussive drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "cough suppressant" or an "antitussive (cough suppressant)."

(b) *Indications.* (1) The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the following phrase: "Temporarily" (select one of the following: "alleviates," "decreases," "relieves," "reduces," "controls," "suppresses," "quiets," or "calms") "cough due to minor throat and bronchial irritation as may occur with" (select one of the following: "the common cold" or "a cold") "or inhaled irritants."

(2) *Other allowable statements.* In addition to the required information identified in paragraph (b) (1) of this section, the labeling of the product may contain any of the following statements provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.

(i) "Cough suppressant which temporarily" (select one of the following: "alleviates," "decreases," "relieves," "reduces," "controls," or "suppresses") "the impulse to cough."

(ii) "Temporarily helps you cough less."

(iii) "Temporarily helps to" (select one of the following: "alleviate," "decrease," "relieve," "control," "suppress," or

"reduce") "the cough reflex that causes coughing."

(iv) "Temporarily" (select one of the following: "alleviates," "decreases," "relieves," "reduces," "controls," or "suppresses") "the intensity of coughing."

(v) (Select one of the following: "Alleviates," "Decreases," "Relieves," "Reduces," "Controls," or "Suppresses") (select one of the following: "cough," "the impluse to cough," or "your cough") "to help you get to sleep."

(vi) *For products containing chlophedianol hydrochloride, codeine ingredients, dextromethorphan, or dextromethorphan hydrobromide identified in § 341.14 (a)(2), (3), (4), and (5):* "Calms the cough control center and relieves coughing."

(vii) *For products containing benzonatate, chlophedianol hydrochloride, dextromethorphan, dextromethorphan hydrobromide, camphor, or menthol identified in § 341.14(a)(1), (2), (4), and (5) and (b)(1) and (2):*

(*a*) "Nonnarcotic cough suppressant for the temporary" (select one of the following: "relief," "alleviation," "decrease," "reduction," "suppression," or "control") "of cough."

(*b*) (Select one of the following: "Alleviates," "Decreases," "Reduces," "Controls," or "Suppresses") "cough impulses without narcotics."

(c) *Warnings.* The labeling of the product contains the following warnings, under the heading "Warnings":

(1) *For antitussives labeled for adults.* (i) "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, or emphysema, or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor."

(ii) "A persistent cough may be a sign of a serious condition. If cough persists for more than 1 week, tends to recur, or is accompanied by high fever, rash, or persistent headaches, consult a doctor."

(2) *For antitussives labeled for children under 12 years of age.* (i) "Do not give this product for persistent or chronic cough such as occurs with asthma or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor."

(ii) "A persistent cough may be a sign of a serious condition. If cough persists for more than 1 week, tends to recur, or is accompanied by high fever, rash, or persistent headaches, consult a doctor."

(3) *Oral antitussives*—(i) *For products containing codeine ingredients identified in § 341.14(a)(3) when labeled for adults*

(*a*) "May cause or aggravate constipation."

(*b*) "Do not take this product if you have a chronic pulmonary disease or shortness of breath unless directed by a doctor."

(ii) *For products containing codeine ingredients identified in § 341.14(a)(3) when labeled for children under 12 years of age.*

(*a*) "May cause or aggravate constipation."

(*b*) "Do not give this product to children who have a chronic pulmonary disease, shortness of breath, or who are taking other drugs unless directed by a doctor."

(4) *Topical antitussives*—(1) *For products containing camphor or menthol identified in § 341.14(b) (1) and (2) in a suitable ointment vehicle when labeled for adults.* "For external use only. Do not take by mouth or place in nostrils."

(ii) *For products containing camphor or menthol identified in § 341.14(b) (1) and (2) in a suitable ointment vehicle when labeled for children under 12 years of age.* "For external use only. Do not take by mouth or place in nostrils."

(5) *For antitussive products labeled for both adults and for children under 12 years of age.* The labeling of the product contains the applicable warnings identified in paragraphs (c)(1), (3) (i), and (ii)(*b*), and (4)(i) of this section.

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *Oral antitussives*—(i) *For products containing benzonatate identified in § 341.14(a)(1).* Adults: oral dosage is 100 milligrams in a suitable dosage form every 4 to 6 hours, not to exceed 400 milligrams in 24 hours, or as directed by a doctor. Swallow without chewing or dissolving in the mouth. May produce temporary numbness if dissolved in the mouth. Children under 12 years of age: consult a doctor.

(ii) *For products containing chlophedianol hydrochloride identified in § 341.14(a)(2).* Adults: oral dosage is 25 milligrams every 6 to 8 hours, not to exceed 100 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 12.5 milligrams every 6 to 8 hours, not to exceed 50 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

(iii) *For products containing codeine ingredients identified in § 341.14(a)(3)* Adults: oral dosage is 10 to 20 milligrams every 4 to 6 hours, not to exceed 120 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 5 to 10 milligrams every 4 to 6 hours, not to exceed 60 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

(iv) *For products containing dextromethorphan or dextromethorphan hydrobromide identified in § 341.14(a) (4) and (5).* Adults: oral dosage is 10 to 20 milligrams every 4 hours or 30 milligrams every 6 to 8 hours, not to exceed 120 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 5 to 10 milligrams every 4 hours or 15 milligrams every 6 to 8 hours, not to exceed 60 milligrams in 24 hours, or as directed by a doctor. Children 2 to under 6 years of age: oral dosage is 2.5 to 5 milligrams every 4 hours or 7.5 milligrams every 6 to 8 hours, not to exceed 30 milligrams in 24 hours, or as directed by a doctor. Children under 2 years of age: consult a doctor.

(2) *Topical antitussives*—(1) *For products containing camphor identified in § 341.14(b)(1) in a suitable ointment vehicle.* The product contains 4.7 to 5.3 percent camphor. Adults and children 2 to under 12 years of age: rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

(ii) *For products containing menthol identified in § 341.14(b)(2) in a suitable ointment vehicle.* The product contains 2.6 to 2.8 percent menthol. Adults and children 2 to under 12 years of age: rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

(iii) *For products containing menthol identified in § 341.14(b)(2 in a lozenge or compressed tablet.* The product contains 5 to 10 milligrams menthol. Adults and children 2 to under 12 years of age: allow (lozenge or compressed tablet) to dissolve slowly in the mouth. May be repeated every hour as needed or as directed by a doctor. Children under 2 years of age: consult a doctor.

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

4. In § 341.90, reserve paragraphs (c)–(n) and add new paragraphs (o) and (p) to read as follows:

§ 341.90 Professional labeling.

* * * * *

(o) *For products containing chlophedianol hydrochloride identified in § 341.14(a)(2).* Children 2 to under 6 years of age: oral dosage is 12.5 milligrams every 6 to 8 hours, not to exceed 50 milligrams in 24 hours.

(p) *For products containing codeine ingredients identified in § 341.14(a)(3).*

(1) Children 2 to under 6 years of age: oral dosage is 1 milligram per kilogram body weight per day administered in four equal divided doses. The average body weight for each age may also be used to determine dosage as follows: for children 2 years of age (average body weight, 12 kilograms), the oral dosage is 3 milligrams every 4 to 6 hours, not to exceed 12 milligrams in 24 hours; for children 3 years of age (average body weight, 14 kilograms), the oral dosage is 3.5 milligrams every 4 to 6 hours, not to exceed 14 milligrams in 24 hours; for children 4 years of age (average body weight, 16 kilograms), the oral dosage is 4 milligrams every 4 to 6 hours, not to exceed 16 milligrams in 24 hours; for children 5 years of age (average body weight, 18 kilograms), the oral dosage is 4.5 milligrams every 4 to 6 hours, not to exceed 18 milligrams in 24 hours. If age is used to determine the dose, the directions must include instructions to reduce the dose for low-weight children.

(2) Parents should be instructed to use a calibrated measuring device to give the drug to the child, to use extreme care in measuring the dosage, and not to exceed the recommended daily dosage.

(3) A dispensing device (such as a dropper calibrated for age or weight) for use in children 2 to under 6 years of age must be distributed to all professionals (doctors and pharmacists) to be dispensed along with the product to prevent possible overdose due to improper measuring of the dose.

Interested persons may, on or before December 19, 1983, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before February 14, 1984. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before October 19, 1984, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before December 19, 1984. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on December 19, 1984. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register,** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: September 26, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

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Part III

Environmental Protection Agency

Emission Standards for 1984 and Later Model-Year Light-Duty Vehicles and Light-Duty Trucks; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2419-4]

Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines; Emission Standards for 1984 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This Final Rule implements or amends three previously separate, but related, rulemakings. First, this Final Rule amends the Interim Final Rulemaking (IFRM) that implemented the all-altitude emission control requirements of Section 206(f)(1) of the Clean Air Act (the Act) for 1984 model year LDVs. The amendments primarily broaden the vehicle exemption criteria which are included in the rules. Second, this Final Rule implements the proposal to establish the same all-altitude standards for 1985 and later model year LDVs. These requirements are also mandated by Section 206(f)(1) of the Act. Third, this rule amends the exemption criteria associated with the Final Rulemaking which implemented high-altitude emission standards for 1985 and later model year LDTs. These criteria were left as an open issue in the previous rulemaking.

These regulations will maximize the environmental benefits of high-altitude emission controls, while minimizing potentially adverse effects on vehicle prices and model availability at both low and high altitudes.

DATES: The 1984 model year regulations dealing with the designation of high-altitude locations (§ 86.084–30(a)(4)(iv)) and the reclassification of heavy LDVs (§§ 86.084–2, 86.084–15, and 86.084–30(a)(3)(iii)) are effective as of October 19, 1983. All remaining regulations are effective as of November 18, 1983.

ADDRESS: Copies of the material relevant to this rulemaking are contained in Public Docket No. A–80–1 for LDVs and No. A–79–14 for LDTs at the U.S. Environmental Protection Agency, Central Docket Section. These dockets are located in West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105 (313) 668–4390.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000–0390.

This final rule implements or amends three previously separate, but related, rulemakings. First, this rule amends the Interim Final Rulemaking (IFRM) that implemented the all-altitude emission control requirements of Section 206(f)(1) of the Clean Air Act (the Act) for 1984 model year LDVs (48 FR 7392). The amendments include the following changes in the interim final rules: (1) Allowing the sale of certain specially equipped vehicles in any area above 4,000 feet, (2) granting General Motors' (GM) petition to reclassify heavy LDVs temporarily to remove them from the 1984 all-altitude requirements, (3) making technical changes to improve the performance exemption criteria and reducing the number of designated high-altitude areas where exempted vehicles cannot be sold, and (4) establishing procedures by which a manufacturer could assure itself of being in compliance with the regulatory requirements regarding the sale of exempted vehicles.

Second, this rulemaking implements the proposal to establish the sale all-altitude requirements of Section 206(f)(1) of the Act for 1985 and later model year LDVs (48 FR 7399). Changes from the proposal parallel the amendments to the interim final rules discussed above. The only difference between the regulatory program for the 1984 model year and that for the 1985 model year and beyond is the absence of the special provisions for heavy passenger cars.

Third, this rule amends the Final Rulemaking (FRM) which implemented high-altitude emission standards for 1984 and later model year LDTs (48 FR 1418). The amendments consist of technical improvements in the performance exemption criteria for the 1985 and later model years.

These regulations also: (1) Amend the labeling requirements for exempted 1985 and later model year LDVs and LDTs to clarify the altitude (i.e., low or high) at which the vehicle was certified for sale, (2) update the certification procedures for small-volume manufacturers to make them consistent with the requirements for 1984 and later model year vehicles, and (3) reinstate the high-altitude standards for 1985 and later model year LDTs, which were inadvertently deleted when the diesel particulate averaging program was implemented (48 FR 33462).

Organization of this Preamble

This final rule affects LDVs beginning in the 1984 model year and LDTs beginning in the 1985 model year. Actions on both vehicle classes are combined in this single rulemaking to provide a cohesive package of changes and additions to EPA's high-altitude emission control program for 1984 and later light-duty motor vehicles. While the requirements for both classes are similar in many respects, there are also significant differences because the regulations for each class are based on different provisions of the Clean Air Act (the Act). For this reason, the regulations affecting LDVs and LDTs will be discussed separately in this preamble.

I. Background

A. 1984 and Later LDV's

Section 206(f)(1) of the Act requires that, beginning in the 1984 model year, all LDV's must meet the applicable Federal emission standards regardless of the altitude at which they are sold.[1] On February 18, 1983, EPA published an IFRM which implemented this Congressional mandate for the 1984 model year (48 FR 7392). On the same date, EPA also published an NPRM to establish identical emission control requirements for 1985 and later model years (48 FR 7399). The principal components of the 1984 IFRM and the 1985 and later NPRM (hereafter the 1985 NPRM) are summarized below.

1. Every LDV must be capable of automatically controlling emissions of hydrocarbon (HC), carbon monoxide (CO), nitrogen oxides (NOx), evaporative HC, and diesel particulate to the levels required by the national emission standards at both low and high altitudes, unless otherwise exempted.

2. Exemptions from the above requirement are available for certain low-power vehicles in order to prevent adversely affecting model availability at all altitudes. Such exempted vehicles are certified for sale at low altitude only.

3. As a condition for exempting a particular vehicle, a manufacturer must certify for sale, at both low and high altitude, at least one version of that vehicle's model type.[2] Additionally, for

[1] LDV's that are only certified to meet separate California emission requirements are not bound by this requirement (see e.g., S. Rep. No. 95–127, 95th Cong., 1st Sess. 87 (1977)).

[2] As defined in 40 CFR 86.078–2, a model type is basically a unique combination of car line, basic engine, and transmission class.

those model types with manual transmissions, the manufacturer must certify, at both altitudes, at least one version of each transmission configuration (excluding differences due to the presence of overdrive).[3]

4. Certification to the national emission standards are specifically required only at a single low-altitude location and a single high-altitude location (5,300 feet).

5. Compliance with emission standards at low altitude will continue to be demonstrated using the applicable Federal Test Procedure (FTP) and other existing certification protocols. At high altitude, manufacturers have the option of performing FTP tests or relying on engineering evaluations to determine compliance.

6. The Agency continued its policy, first established in the 1982–83 model years, of foregoing Selective Enforcement Auditing at high altitude.

On April 29, 1983, EPA published two Federal Register Notices to extend the comment periods for both the 1984 IFRM and the 1985 NPRM (48 FR 19369 and 48 FR 19418). These actions were taken for two reasons. First, the Agency granted a petition from the National Automobile Dealers Association (NADA) to extend the comment period on the 1984 IFRM to allow additional time for the preparation of comments.[4] Second, EPA desired additional comments on three issues relating to the 1984 IFRM. These issues are: (1) The designation of high-altitude locations where exempted vehicles (i.e., those certified only at low altitude) could not be sold, (2) the continued sale of vehicles with special axle ratios that are designed specifically for the high-altitude market, and (3) a request from GM to exclude its heaviest LDV from the all-altitude standards for 1984. Because the first two issues also concerned the 1985 NPRM, the comment period on the NPRM was also extended.

B. 1984 and Later LTD's

On January 12, 1983, EPA published a Final Rule which established high-altitude emission standards for 1984 and later model year LDTs. The standards were promulgated under the Agency's general rulemaking authority contained in Section 202(a) of the Act. The program is very similar to that which was in effect for 1982–83 model year LDTs. The principal components of the Final Rule are summarized below.

1. All LDTs must be capable of automatically meeting the high-altitude standards for HC, CO, NOx, and evaporative HC *or* be capable of being modified to do so, unless otherwise exempted.

2. The high-altitude standards generally require the same percentage reduction in baseline emissions as that achieved by the associated low-altitude standards. These standards, therefore, are termed "proportional" and generally have higher numerical values than their low-altitude counterparts.

3. Two types of exemptions from the high-altitude requirements are available for the 1984 model year. Manufacturers have the option of exempting up to 30 percent of their high-altitude sales from the certification requirements and still be allowed to sell such exempted LDTs in high-altitude areas. Or, manufacturers could use objective performance criteria to exempt low-lower vehicles, but such exempted LDTs could not be sold in high-altitude areas. For the 1985 and later model years, only the latter, performance-based exemption was promulgated.

4. Manufacturers have the option of demonstrating compliance with the high-altitude standards at 5,300 feet by performing FTP tests or relying on engineering evaluations to determine compliance.

As part of the Final Rule for 1984 and later model year LDTs, EPA solicited comments on the appropriateness of the performance exemption criteria and on the need to extend the aforementioned sales-based exemption beyond the 1984 model year.[5] Therefore, the exact form of the exemption provisions for 1985 and later LDTs was left as an open issue and is resolved in this rulemaking.

II. Contents of the Final Rule

This section describes the changes in the high-altitude program for LDVs and LDTs that are being promulgated in this Final Rule. It also briefly describes the contents of the Final Rulemaking for 1985 and later LDVs. A detailed presentation of the comments received by EPA and EPA's analysis of related issues can be found in the subsequent section entitled, "Issues: Comments and Analysis."

A. 1984 LDV's

1. *Designation of High-Altitude Locations.*

The Agency is revising the present designation of high-altitude locations, where only vehicles certified to emission standards at high-altitude can be sold, to exclude those counties in states which do not have an auto-related air quality problem at higher elevations. Specifically, all of the currently designated high-altitude counties in Arizona, Idaho, Montana, Nebraska, Oregon, Texas, and Wyoming are excluded, while all of the high-altitude counties in Colorado, Utah, New Mexico, and Nevada are retained. As a consequence of this redesignation, all of the vehicles that are certified in compliance with the standards at low altitude (i.e., vehicles certified at both altitudes and those exempted vehicles certified only at low altitude) may be sold for principal use not only in low-altitude locations (i.e., areas below 4,000 feet), but also in nondesignated high-altitude locations (i.e., nondesignated areas above 4,000 feet.).

2. *Exemption Provisions.*

Several changes are being made to the exemption provisions. First, the Agency will allow the sale of vehicles in high-altitude areas which are equipped with special high-altitude axle ratios. These axles are desired by high-altitude consumers because they have higher numerical gear ratios which are designed to counteract the deleterious effects of high altitude on vehicle performance. Specifically, the new exemption feature eliminates the low-altitude certification requirements for these specially equipped vehicles so that they are only certified in compliance with the standards at high altitude. Such an exempted vehicle can be sold for principal use in any area above 4,000 feet, but cannot be sold for principal use below this elevation.

Second, under the existing provisions, any vehicle with poorer performance (i.e., worse acceleration) at high altitude than the manufacturer's worst performing vehicle at low altitude can be exempted from the high-altitude certification requirements. One of the allowable measures of performance was the time required to accelerate from 0 to 40 miles per hour (mph). This performance measure is being broadened so that the top speed in this acceleration test can either be 40 or 50 mph. Of course, a manufacturer must consistently use the same top speed for all vehicles tested during a single model year. The acceleration test procedure is also being modified to allow the use of acceleration models (e.g., computer simulations) in lieu of actual vehicle tests. These modifications increase the number of technically satisfactory performance-measurement tools that

[3] As defined in 40 CFR 86.078–2, and for the purposes of this regulation, a transmission configuration is basically the number of forward gears.

[4] Letter and attachment from R. J. Wade, NADA, to R. D. Wilson, U.S. EPA, March 17, 1983, available for review in EPA Docket No. A–80–01.

[5] The appropriateness of the performance exemption was questioned by Ford in a letter dated December 14, 1981, from H. O. Petrauskas, Ford, to L. Bockh, U.S. EPA, available for review in EPA Docket No. A–79–14.

can be used to identify poor performers at high altitude.

Third, the existing exemption provisions referred to the incorrect procedure, the Society of Engineers' (SAE) Test Procedure J245, for measuring the rated horsepower of a vehicle's engine. This has been changed to the correct procedure, J1349.

3. *Temporary Reclassification of 1984 Heavy LDV's.*

In response to a petition by General Motors, the Agency is reclassifying, for the 1984 model year only, certain vehicles as "heavy passenger cars." Heavy passenger cars are those vehicles which would otherwise be LDVs, but are rated at over 6,000 lbs. gross vehicle weight and have equivalent test weights of 5,000 lbs. or more. This reclassification will remove these vehicles from the 1984 LDV requirements, permitting them to be certified in compliance with the statutory standards at low altitude and proportional standards at high altitude. These standards are identical to those that were in effect for the 1983 model year, except that these vehicles will be required to meet the standards automatically, i.e., without modification. Therefore, apart from the levels of the high-altitude standards, the other requirements applicable to 1984 LVDs will apply to 1984 heavy passenger cars, as well. As described in Section III below, EPA proposed granting this petition on April 29, 1983 (48 FR 19369).

4. *Manufacturers' Liability.*

Under the current regulations, a manufacturer could be held liable if an exempted vehicle is improperly sold by one of its dealers for principal use in a prohibited location (e.g., a vehicle certified only at low altitude but sold for principal use in a designated high-altitude location). This section of the regulations is being modified to describe clearly the steps a manufacturer may take to discharge its responsibility in ensuring the proper sale of exempted vehicles.

B. 1985 and Later LDVs

The Agency is adopting an all-altitude emission control program for 1985 and later model year LDVs which is identical in all respects, except one, to the program for 1984 model year LDVs: The special provisions for 1984 model year heavy passenger cars will not extent into 1985 or beyond, as the need only exists for the 1984 model year.

C. 1985 and Later LDTs

The Agency is making three changes in the performance-based exemption criteria for LDTs beginning in the 1985 model year. Two of the changes incorporate improvements that were originally adopted for 1984 model year LDVs because these features are directly applicable to both vehicle classes. These improvements are: (1) The optional use of rated horsepower in the performance model, and (2) the optional use of a test procedure to measure vehicle acceleration directly. The amendments to these exemption features described in Section II.A.2. above are also being adopted.

The third revision substitutes the use of gross vehicle weight in the performance model instead of equivalent test weight since the former is more relevant to the performance characteristics of LDTs.

D. Revisions to the Labeling Requirement

The requisite label language that must be affixed to exempted LDVs and LDTs is being revised to indicate more clearly the altitude(s) at which the vehicles are certified. Because manufacturers have already printed labels for the 1984 model year, this labeling change will not be effective until the 1985 model year.

E. Revisions to the Certification Procedures for Small-Volume Manufacturers

The 1984 IFRM neglected to revise the existing regulations that delineate the certification procedures for small-volume manufacturers. This Final Rule amends these provisions to include the all-altitude requirements for 1984 and later LDVs. The Agency is also taking this opportunity to make several other technical changes to these regulations so that they are consistent with the other regulatory requirements for 1984 and later motor vehicles. These latter changes do not introduce new requirements or affect the stringency of the existing provisions.

III. Issues: Comments and Analysis

This section presents a discussion of the issues and a summary and analysis of the comments received concerning the IFRM for 1984 model year LDVs, the NPRM for 1985 and later LDVs, and the FRM for 1984 and later LDTs. (With regard to this last rulemaking the only issue involved the exemption provisions for 1985 and later LDTs.) The comments include written submittals to the respective dockets for the three rulemakings, and those presented at the March 22, 1983 public hearing on the 1985 NPRM, which was held in Denver, Colorado.* As the issues concerning the 1984 and 1985 and later LDV rulemakings are essentially the same, they will be discussed together. The discussion of the single LDT issue follows that discussion.

A. 1984 and Later LDVs

1. Designation of High-Altitude Locations

On September 14, 1983, the Agency promulgated a revised list of high-altitude locations where only those vehicles certified in compliance with standards at high altitude could be sold (48 FR 41296). While the original list of high-altitude locations was based solely on altitude, the revised list added a need for air quality improvement as a criterion for a county's inclusion, and therefore reduced the number of designated high-altitude areas to those states with automobile-related pollution problems. This "redesignation" of high-altitude locations affected 1983 LDVs and 1983 and later light-duty trucks (LDTs). The redesignation was based on Section 202(f)(2) of the Act, which contains guidelines for establishing high-altitude regulations for these motor vehicles; one of those guidelines being a consideration of air quality effects when setting such standards.

In developing the all-altitude regulations required by Section 206(f)(1) of the Act for 1984 and later LDVs, EPA found that certain exemptions from the high-altitude portion of the certification requirements were necessary for very low-power vehicles. Such exempted vehicles were only required to meet standards at low altitude. The Agency found such exemptions were not at odds with the statutory directive that all vehicles meet emission standards at the altitude where they are sold, as long as these vehicles were not available for sale at high altitude. Since the original list of designated high-altitude locations included *all* high-altitude areas, this list was not revised for 1984 and later LDVs in the redesignation rulemaking. However, in the **Federal Register** notice of April 29, 1983 (48 FR 19369), EPA solicited comments on whether the revised list of designated high-altitude areas should be applied to 1984 and later LDVs, as well, so that exempted LDVs could be sold in the high-altitude areas of states with no automobile-related pollution problems.

General Motors, Ford, and Chrysler commented that the redesignation should be applied to LDVs in 1984 and later model years. Ford stated that just because Section 206(f) does not specifically require EPA to consider air quality needs as does Section 202(f)(3),

* EPA Docket No. A-80-01 contains comments on both LDV rulemakings and EPA Docket No. A-79-14 contains comments on the LDT rulemaking.

it does not necessarily follow that Section 206(f) may not be implemented in accordance with this approach. Ford reasoned that a review of the legislative history indicates that Congress designed Section 206(f) to be an equitable approach to improving air quality in high-altitude areas. The redesignation focuses the high-altitude requirements on those high-altitude areas with air quality problems. Therefore, its adoption for 1984 and later is fully consistent with Congressional intent. Ford also stated that because EPA has the authority to fashion vehicle exemptions under the Act, it is also logical that this same authority can be used to designate high-altitude locations as part of the exemption provision. All three manufacturers (i.e., Ford, GM, and Chrysler) also argued that EPA has the discretion to consider air quality needs in designating high-altitude locations because Section 206(f) does not specifically prohibit it.

Ford further argued that there is no practical reason for retaining the old list of counties. It believed that few exempted vehicles are likely to be sold in nondesignated high-altitude locations due to their unacceptable performance. Those few that are sold will not cause an air quality problem, since, according to the redesignation criteria, they will be in areas that do not currently have air quality problems nor are expected to in the future.

Finally, Ford and GM commented that failure to adopt the revised designation criteria would result in a separate list of high-altitude counties for LDVs and LDTs. Such a system, they concluded, would be more costly than necessary and would needlessly confuse consumers and dealerships.

No comments in favor of retaining the original list of designated high-altitude locations were received.

EPA agrees with the commenters that few exempted vehicles would be sold in high-altitude areas if allowed. These vehicles' performance in high-altitude areas should be so poor that their desirability will be very limited. It is also true that the formerly designated high-altitude areas do not need the air quality benefits of EPA's complete high-altitude program. They are currently in compliance with motor vehicle-related air quality standards and are fully expected to continue to be in compliance, regardless of EPA's decision on this issue. In fact, the exempted LDVs that would be sold in these areas would still emit less than the vehicles they are replacing for many years to come, further improving air quality beyond already acceptable levels. Accordingly, any effects on air quality would be *de minimis*. Concerning past precedent, exempted LDTs are already allowed for sale in these areas and will be in the future.

Finally, adopting the revised list of designated high-altitude locations would be administratively simpler. Two types of areas currently exist: (1) Designated high-altitude areas, and (2) all other areas. Applying the redesignation to 1984 and later LDVs would equate the set of designated high-altitude areas for both LDVs and LDTs. Not applying the redesignation to 1984 and later LDVs would result in different sets of designated high-altitude areas for LDVs and LDTs.

Accordingly, EPA finds sufficient cause to apply the redesignation criteria to the 1984 and later LDV program.

2. Exemption Provisions

The exemption of certain low-power, high-fuel economy LDVs from the all-altitude requirements received the most comment of any issue. These comments can be broken down into several subject areas, each of which is discussed below.

a. Model Type Requirement

As discussed previously, to exempt a particular LDV, the 1984 IFRM required that a manufacturer must certify for sale, at both low and high altitudes, at least one version of that vehicle's model type. Additionally, if the model type includes a manual transmission, then at least one version of that transmission configuration must be certified at both altitudes.

Renault suggested that EPA should relax this provision to require only that a similar engine/transmission combination of the exempted model be certified at high altitude. For example, if a manufacturer planned to offer two different sizes of the same basic engine (i.e., same number of cylinders) at low altitude, then only one of the two would need to be available at high altitude. Renault argued that this would still provide adequate model availability in high-altitude areas and be consistent with Congressional intent. The National Automobile Dealers Association (NADA) and the Colorado Automobile Dealers Association (CADA) recommended that EPA's "model type" requirement be retained to ensure adequate model availability at high altitude.

It is clear from the legislative history of Section 206(f)(1) that Congress intended to ensure that all models available at low altitude were also available at high altitude. At the time this section was drafted, Congress was fully aware that the original 1977 high-altitude program had created significant model availability problems. Therefore, the Agency believes that the resulting Congressional mandate to protect "model" availability centers upon the vehicle characteristics that most high-altitude consumers readily perceive as distinguishing one model from another.

The Agency's analysis of these problems, which was prepared as part of the 1982–83 high-altitude program, showed that many consumers and automobile dealers complained not just about the total absence of particular car lines, but also about the unavailability of engine sizes and transmission types. As a consequence, the Agency concludes that Congress' intent to ensure model availability can only be fulfilled by using what appears to be the consumers' definition of model in the exemption provision. Therefore, EPA rejects Renault's broadened interpretation of "model" and is retaining the existing "model type" requirement.

b. Performance Adjustments

General Motors and NADA commented that the 1984 IFRM precluded dealer adjustments to exempted vehicles in order to improve the performance of these vehicles when they are operated at an elevation other than the altitude for which they were originally certified and sold. They argued that such adjustments were allowed under the regulations for 1982–83 exempted vehicles and should be continued.

Because of the confusion on this issue, it is helpful to review the interaction of the performance adjustment regulations with both nonexempted and exempted vehicles. First, it is important to remember that the vast majority of 1984 and later LDVs will not be exempt from the all-altitude requirement of Section 206(f)(1). As a result, these vehicles will be originally designed to operate at all elevations. The performance adjustment regulations will not be applicable to (nor needed for) these vehicles.

Exempted LDVs, on the other hand, will be certified only at low altitude and may have performance problems at high altitude. Exempted vehicles may be operated at high altitude by people who visit or permanently move into high-altitude areas. These vehicles also may be sold in locations above 4,000 feet that are not designated high-altitude locations (see Section III.A. above). Therefore, the performance adjustment regulations do apply to exempted LDVs.

Specifically, § 86.1603(a)(2) requires the availability of high altitude adjustment instructions for exempted LDVs, unless they are equipped with

fuel-metering systems that automatically compensate for changes in elevation. In this latter case, no instructions are required if the manufacturer requests an exemption from the requirement as specified in § 86.1603(b). Hence, even if an exempted vehicle is equipped with altitude-compensating hardware, performance adjustments could be made available to a high-altitude consumer if a manufacturer so chooses.

c. Exemption for Special High-Altitude Axles

The 1982–83 high-altitude LDV regulations allowed the nationwide sale of vehicles equipped with special axle ratios that were only certified in compliance with high-altitude standards. These axles had higher numerical gear ratios designed to counteract the deleterious effects of high elevations on vehicle performance. The 1984 IFRM effectively prohibited the continued sale of these specially equipped high-altitude vehicles. Under the regulations, vehicles using such higher numerical axle ratios could be sold only if they were certified in compliance with the standards at both low and high altitudes, consistent with the all-altitude requirement.

General Motors, the only manufacturer to produce such specially equipped vehicles in the 1983 model year, commented that the certification of vehicles with special high-altitude axles at low altitude would be too costly relative to their sales volume, and may also adversely affect its corporate Average Fuel Economy (CAFE) rating (the fuel economy of high-altitude vehicles is not included in the rating). For these reasons, General Motors stated it would drop its special high-altitude axle ratios from its LDV product line beginning in the 1984 model year.

Both NADA and CADA stated that the continued availability of higher numerical axle ratios was very important to dealers in high-altitude areas and that their loss would adversely affect model availability. At the public hearing, Ford concurred with these comments, stating that when the same basic vehicle was available with two axle ratios, the higher numerical ratio generally accounted for 70 percent of the sales at high altitude. In its written comments, however, Ford suggested that it had no need for a special axle ratio exemption since its product plans for 1984–85 do not include any such axles.

In the event that the axle ratio exemption was adopted, Ford requested that such specially equipped vehicles be permitted to be sold in any area above 4,000 feet and not just in designated high-altitude locations. Ford also requested that these vehicles be allowed to be sold by "fringe" area dealers (i.e., those located near the demarcation point of 4,000 feet) in order to prevent any potential economic hardship for those dealerships. This would effectively allow the sale of these specially equipped vehicles in low-altitude areas.

Renault, AMC, and Chrysler also supported the need for a special exemption from the certification requirements at low altitude that would allow the sale of these specially equipped vehicles in high-altitude areas. However, as with Ford, these manufacturers did not state that they actually planned to produce such vehicles even if allowed.

The Colorado Department of Health was the only commenter that did not support this exemption. It was concerned that such exemptions would move the LDV program even closer to a two-car strategy, which is not rigorously consistent with the requirements of Section 206(f)(1) and the intent of Congress. It also stated that there appeared to be no justification for these exemptions, unlike that for the exemption of low-power vehicles which perform poorly when used at high altitude.

From the comments on this issue, it is clear that the automotive industry as a whole considers the allowance of higher numerical axles at higher elevations as being important, especially since these axles have been available in the past. The Agency also notes that as fuel economy pressures continue to shift the market to smaller, less powerful vehicles, the need for these special axles at higher elevations may become somewhat more important.

The most important consideration in determining whether special high-altitude axles should be allowed is, of course, whether it is at odds with the statute. As discussed earlier, it was Congress' express desire to protect model availability which led to the all-altitude requirement. Because higher numerical axles have been available in the past and because they may be even more important to consumers in the future, EPA believes that it would be contrary to the intent of Congress if the high-altitude regulations resulted in the unavailability of these axles in high-altitude areas. Therefore, this Final Rule includes a provision to exempt vehicles equipped with special high-altitude axles from the low-altitude certification requirements. This allowance will have no effect on air quality, as the vehicles with special high-altitude axles will be certified to meet standards at high altitude, and will not be available for principal use at low altitude.

The provision also allows the sale of these vehicles for principal use in any area above 4,000 feet, for two reasons. First, the improved performance associated with these higher numerical axles is desirable in all high-altitude areas and not just in high-altitude locations that have been designated as needing emissions control. Second, there is no adverse environmental impact associated with this allowance since these vehicles will be certified to the standards at high altitude.

The Agency is not adopting Ford's suggestion that these specially equipped vehicles be allowed to be sold for principal use in low-altitude areas. The first problem with this is that such vehicles would not be certified at low altitude and would probably be in violation of the standards when operated in low-altitude areas. This could adversely affect air quality in low-altitude locations with air quality problems. Another principal concern is that it would be impossible to discern whether the higher numerical axle ratio was indeed specially designed for high altitude use, which is the reason for the exemption, or if it was simply a special axle designed for use at all altitudes. In the latter case, allowance of sale at low altitude would provide a loophole allowing avoidance of the all-altitude requirement solely on the basis of a manufacturer's declaration that the special axle was a high-altitude component. In the worst case, if the axle ratio became popular at low altitude, such a provision could result in a class of vehicles at low altitude that would not meet the standards in those areas. This would be in clear violation of the statute and could not be allowed.

The Agency also believes that the potential for adversely affecting dealers in "fringe" areas is minimal. The vast majority of LDVs will be available to these dealers since most vehicles will be certified for sale in all low-altitude areas and most high-altitude areas (i.e., vehicles certified only at low altitude may be sold in nondesignated high-altitude areas as discussed previously). In addition, the Agency expects that the number of special high-altitude models will never be very great because the small total sales volume at high altitude (i.e., only about 3 percent of the national total) would not support wide variety. Therefore, this Final Rule prohibits the sale of exempted vehicles with special high-altitude axles for principal use in any area below 4,000 feet (i.e., at low altitude).

d. Performance Exemption Criteria

The 1984 IFRM contained specific criteria by which a manufacturer may identify a vehicle that is likely to have unacceptable performance at higher elevation if modified to meet the high-altitude standards. At the manufacturer's discretion, any such LDV may be exempted from the high-altitude certification requirement, but as a consequence, the vehicle could not be marketed in designated high-altitude locations.

There are two general ways a manufacturer can identify exemptible vehicles. Both work on the principal that any vehicle having poorer performance at high altitude than the poorest performer at low altitude is exemptible. First, any vehicle with a longer 0–40 mph acceleration time at high altitude than the manufacturer's vehicle with the longest 0–40 mph acceleration time at low altitude can be exempted.

Second, a manufacturer can use a specified performance model to "predict" those vehicles which should have unacceptable performance and, hence, are eligible for exemption.

Ford recommended in its comments to the 1984 IFRM that the acceleration test be modified in two ways to make it less expensive and easier to use. First, it asked that the top speed be changed from 40 mph to 50 mph. Second, it asked that acceleration models (e.g., computer simulations), based on accepted engineering techniques, be allowed in addition to actual vehicle tests. Ford also stated that the test procedure for determining rated horsepower in EPA's performance model was incorrectly specified as SAE J245 and should be SAE J1349.

Since a top speed of 50 mph is as appropriate as 40 mph for the acceleration test, EPA is amending the regulations to allow either top speed to be used. However, to be consistent, a manufacturer can only use a single top speed for all vehicle tests during a single model year. Also, available acceleration models are as accurate as the general performance model already provided. Thus, EPA is also allowing their use. Finally, the test procedure for determining rated horsepower is being changed to SAE J1349.

3. Special Provisions for Heavy Passenger Cars

On April 29, 1983, EPA announced its intention to reclassify especially heavy passenger cars as other than LDVs for 1984, removing them from the all-altitude requirement (48 FR 19369). This action was in response to a petition from General Motors, which indicated that for the 1984 model year only, the application of the all-altitude requirement to its Cadillac limousine would be too closely to justify marketing this vehicle. According to GM, the 6.0-liter modulated displacement engine could not be redesigned to meet the sea level standards at high altitude for the 1984 model year and there is no suitable replacement engine.

The basis of EPA's announced intent to grant GM's petition was twofold. First, the sales volume for this type of vehicle is very low (i.e., GM projects fewer than 1,500 total sales, with about 50 of these occurring at high altitude). The environmental impact of granting the petition would clearly be negligible. Second, this vehicle has a gross vehicle weight rating (GVWR) of over 6,000 pounds and Section 202(b)(3)(C) of the Act allows vehicles in excess of 6,000 pounds GVWR to be classified as other than LDVs. Therefore, the Agency proposed to classify passenger cars rated over 6,000 pounds GVWR (with equivalent test weights of 5,000 pounds or more) as other than LDVs for the 1984 model year only. However, apart from the all-altitude requirement, other LDV standards and requirements would apply.

Few comments were received on this issue. Chrysler stated that it did not object to the reclassification. Ford commented that it is not directly affected by the proposal from either an emissions compliance or competitive viewpoint. Ford added, however, that it does sell vehicles to limousine manufacturers that may be affected because their vehicles may be under 6,000 pounds GVWR and, consequently, would be ineligible for this reclassification.

The Agency is promulgating these heavy passenger car provisions because: (1) It is consistent with the Act, (2) no comments opposing GM's petition were received, and (3) the competitive and air quality effects of the reclassification should be negligible, as evidenced by the lack of comment from other limousine manufacturers. The Agency has established emission standards to provide the greatest degree of emission control possible and retain the "one-car" strategy of the 1984 all-altitude program (i.e., the vehicles must automatically comply with the applicable low- and high-altitude standards), while at the same time providing GM with the necessary regulatory relief. Specifically, for the 1984 model year only, passenger cars rated over 6,000 pounds will be required to meet the same low-altitude standards as LDVs and the proportional standards 1982–83 LDVs were required to meet at high altitude. This was done because the GM limousine was able to meet both of these sets of standards without modification in the 1983 model year.

4. Manufacturers' Liability

On September 14, 1983, the Agency amended the high-altitude regulations for 1982–83 model year LDVs and 1982 and later model year LDTs to clarify the manufacturers' liability for the sale of certain vehicles in high-altitude areas (48 FR 41303). More specifically, a manufacturer would have been in violation of the Act if its dealer sold a vehicle which was certified only at low altitude to a customer for principal use in a designated high-altitude location. The Motor Vehicle Manufacturers Association (MVMA) challenged this portion of the regulations by claiming that it unlawfully made the manufacturers "vicariously liable" for the actions of independent dealers. The Agency's settlement with MVMA resulted in amending the regulations to include specific steps that a manufacturer could take to protect itself from being held liable if its dealer sold the wrong vehicle for principal use in a designated high-altitude location.

Because the IFRM for 1984 model year LDVs contains a similar provision regarding the sale of exempted vehicles, Ford commented that the above-referenced language also should be applied to the sale of these vehicles.

The Agency agrees with Ford's recommendation. As a result, this final rule applies the language of the previously discussed settlement to the sale of exempted 1984 LDVs. In promulgating the requirements, the Agency finds that it is unnecessary to first propose this change and receive public comment. Full notice and opportunity for public comment were provided on virtually identical provisions as part of the rulemaking action for 1982–83 model year LDVs (47 FR 47445) and no adverse comments were received. Also, this change does not add a new requirement to the regulations but rather clarifies an existing provision. Accordingly, there is "good cause" to omit notice and opportunity for public comment.

5. One-Step, Pressure-Sensing Devices

The regulations require that any one-step, pressure-sensing device automatically engage at or below 4,000 feet to ensure that high-altitude areas, such as Salt Lake City (elevation 4,260 feet), receive the benefit of the emission control program. The elevation of 4,000 feet was chosen because it is the widely accepted demarcation point between

low and high altitude, and because it was consistent with the legislative history of Section 206(f).

General Motors commented that it interprets this requirement as permitting these devices to actuate at a "nominal" altitude of 4,000 feet (i.e., roughly 4,000 feet) and requested that EPA revise the regulations to clearly permit this. General Motors argued that this would not only allow for differences in barometric pressure due to changing weather conditions, but would also allow for manufacturing variability. It would also prevent having to design the device to operate at such low altitudes that driveability may be adversely affected in some cases.

Ford commented that it had also interpreted the regulations as allowing a "nominal" switch point of 4,000 feet. American Motors Corporation, Renault, and NADA also supported the "nominal" interpretation.

Ford stated that only some of its vehicles would use such devices and that these would actuate by 4,260 feet with over a 95 percent confidence level; meaning that only a very small percentage of Ford vehicles would be operating with low-altitude settings at the elevation of Salt Lake City. General Motors provided data on the operation of its pressure-sensing devices which showed that under standard atmospheric conditions, the switch from low to high altitude settings may not occur until 4,300 feet. However, General Motors also added that it believes a vehicle can not be shipped or driven to Salt Lake City without passing through an elevation of at least 5,000 feet. Therefore, General Motors concluded that it is impossible for any of its vehicles to be in a low-altitude setting while in Salt Lake City.

The Agency agrees with General Motors' comment that vehicles shipped or driven to Salt Lake City must pass through elevations of at least 5,000 feet. However, coupling the variability of General Motors' devices to the historical range in the barometric pressure of such areas shows that some vehicles may not switch to high-altitude settings until they are above this elevation. In addition, there are high-altitude areas needing emission control other than Salt Lake City that are well below 5,000 feet, such as Reno, Nevada, and Fort Collins, Colorado, which are also of concern.

General Motors did not indicate why its devices experienced such a high degree of variability, nor did Ford mention why it could not achieve a 95 percent confidence at 4,000 feet instead of 4,260 feet. At the same time, the purpose of the 4,000-foot requirement is to indicate clearly to manufacturers that, two-point certification notwithstanding, EPA intends vehicles to comply with emission standards between 4,000 feet and 5,300 feet, the high-altitude certification point. As such, EPA expects that any in-use vehicles tested by EPA at locations within this range of elevations, such as Salt Lake City, Reno, and Fort Collins, to comply with standards as they would at low altitude. If manufacturers' devices will actuate and their vehicles comply with emission standards in such cities, as they have indicated they will, then they have complied with the 4,000-foot requirement. To add the word "nominal" would remove any objective criteria from the provision. Thus, EPA does not find a need to modify this requirement.

6. Level of the Standards

The 1984 model year LDV standards are numerically identical at both low and high altitudes. Chrysler commented that the standards at high altitude are more stringent than those required by the Act. It argued that section 206(f)(1) states that these vehicles "* * * shall comply with the requirements of Section 202 * * *" and that section refers to less stringent, numerically higher proportional standards for high-altitude areas.

In reviewing this comment, the Agency finds that Chrysler has specifically focused on paragraph (f)(2) of Section 202. That paragraph refers to proportional standards as a high-altitude requirement for 1981–83 model year light-duty motor vehicles. As such, the proportional requirements clearly were not intended for LDVs beginning in the 1984 model year. Consequently, the remaining national emission requirements apply to these vehicles. EPA's interpretation is strongly supported by the legislative history of Section 206(f)(1). Therefore, this Final Rule retains the requirement that 1984 model year LDVs comply with numerically identical emission standards at both low and high altitude.

7. Legal Justification for the Control Strategy

In its comments at the public hearing, Ford took issue with EPA's interpretation of Congressional intent regarding model availability at high altitude. Ford stated that requiring the certification of every vehicle configuration at both altitudes unless exempt, is overly restrictive because Congress only desired that every "basic" model be available at higher elevations. It continued that EPA had similarly erred in the exemption provisions by requiring at least one configuration (or version) of the exempted model type to be certified at both low and high altitudes. Ford specifically requested that the exemption provision be amended to exclude the single model-type certification requirement.

In its post-hearing comments, however, Ford stated that EPA's certification strategy need not be changed because any alternative would likely result in essentially the same program for practical purposes. This reversal in Ford's position would apparently make any response unnecessary.

8. In-Use Compliance and Recall

General Motors commented that it was concerned about unknowns in regard to in-use compliance at high altitude, due to the degree of emission reduction now required. It recommended that any noncompliance remedy resulting from EPA surveillance/compliance testing at high altitude be limited to those vehicles operating in high-altitude areas.

The Agency believes that it would be premature to make any commitment regarding appropriate remedies resulting from high-altitude testing. The facts in such circumstances are relevant to the development of appropriate remedies. Hence, the Agency believes it would be best to consider each noncompliance problem on a case-by-case basis, as has been done in the past.

9. Self-Certification

The 1984 IFRM continued the practice of allowing manufacturers the choice of either conducting full FTP tests to demonstrate compliance at high altitude or using engineering evaluations to ensure the standards are met at high altitude. Because of the cost savings involved most manufacturers have chosen the latter technique which is generally referenced to as "self-certification."

Two commenters expressed concern regarding the effectiveness of the self-certification process. The Denver Regional Council of Governments stated there is no real knowledge of whether the vehicles are in compliance with the standards at high altitude unless EPA either requires FTP testing or institutes Selective Enforcement Auditing (SEA) at high altitude. The Colorado Department of Health (CDH) stated that preliminary results of an EPA-sponsored in-use emission factor test program showed that many of the vehicles exceeded one or more of the standards at high altitude. Because of this, CDH requested that EPA continue to evaluate this program carefully before making a final

commitment to retain it for future model years. However, CDH did not specifically oppose continuing self-certification for now. In their comments, Renault and AMC supported retaining the self-certification provisions.

The Agency is, of course, concerned that the preliminary results of its in-use emission factor testing program have shown some vehicles exceeding the standards at high altitude. At the same time, EPA notes that it is too soon to judge the effectiveness of the self-certification program because the number of vehicles tested so far is small. Also, in-use performance can be expected to improve as manufacturers become more accustomed to the new program. At the same time, however, the requirement that vehicles comply with the standards at high altitude will not be compromised. If EPA's current in-use testing programs indicate that manufacturers may be in violation of the standards, the Agency will consider appropriate action, which may include recall, selective enforcement auditing, and/or a reevaluation of the self-certification concept.

B. 1985 and Later LDTs

The Final Rule for 1984 and later LDTs continued the existing 30 percent sales-based exemption as an option to the performance-based exemption for the 1984 model year only. The principal advantage of the sales exemption is that exempted vehicles need only be certified at low altitude but may continue to be sold for principal use in designated high-altitude locations. (This is not true for performance-exempted vehicles which cannot be sold for principal use in designated high-altitude areas.) Also, the vehicles a manufacturer chooses to exempt are simply at its discretion.

This 1-year extension was granted to ensure that the leadtime for the new high-altitude program was adequate. The absence of the sales exemption might have jeopardized the completion of certification in time for the start of the 1984 model year, because significantly more LDTs might have required high-altitude certification if only the performance exemption was available. Another reason for the extension was that the appropriateness of the LDT performance exemption criteria had been challenged by Ford. The Agency clearly stated in the Final Rule its intention to retain only the performance exemption after the 1984 model year because the potential leadtime problem would no longer exist. At the same time, however, EPA requested comment on the need to continue the sales exemption for 1985 and beyond, and also on the appropriateness of the performance exemption criteria.

The comments on the exemption issue for 1985 and later model year LDTs can be grouped into two categories. Each category is discussed separately below.

1. Need to Extend the Sales Exemption

General Motors, Chrysler, Ford, and AMC all requested the continuation of the sales exemption option. The manufacturers stated that this exemption provision is desirable because of the cost savings involved. Chrysler, Ford, and AMC suggested that model availability at high altitude would be significantly reduced because developing the necessary high-altitude calibrations for previously sales-exempted LDTs would be too costly to justify given the small sales volume of these vehicles.

General Motors, Ford, and AMC also had additional comments. General Motors stated that the performance exemption was inequitable because smaller manufacturers could potentially exempt a larger portion of their vehicle configurations, thereby saving significantly on development costs. It continued that the only way to prevent this was by retaining the sales exemption. Ford commented that eliminating the sales exemption is not necessary from an environmental perspective because both EPA and Ford have forecasted that there will be no discernible effect on air quality. American Motors commented that EPA is incorrect in assuming that the leadtime problem is no longer an issue for 1985 and later model year LDTs. Its principal argument was that EPA's then proposed changes in the useful life of LDTs beginning in the 1985 model year would require the recertification of almost all LDT engine families. (These useful life changes were proposed on January 13, 1983 (48 FR 1406)). Hence, AMC concluded that leadtime remains a problem that could be eased by retaining the sales exemption for two years after the low- and high-altitude emission regulations stabilize (presumably until about 1987).

The Agency does not agree that eliminating the sales exemption will result in the economic burden suggested by the automobile manufacturers. The self-certification provision will continue to provide a substantial reduction in the economic burden of the high-altitude program. Manufacturers presented no evidence to contradict this, nor did they support their contention that significant savings would result from retention of the exemption. Also, as discussed in the next section, EPA is making significant improvements in the performance exemption criteria to ease the identification of vehicles that may be exempt from high-altitude certification requirements. These changes should help reduce the total cost of high-altitude certification by more accurately identifying poor performing vehicles that otherwise would not be exempt and, consequently, would be the most expensive to certify at high-altitude.

The same arguments are relevant to the issue of reducing model availability. That is, by reducing the potential cost of developing high-altitude calibrations, manufacturers should continue to be able to offer the types of vehicles high altitude customers want.

Concerning General Motors' comment about equity, the Agency's experience with identical performance provisions for 1982–83 model year LDVs indicates that manufacturers (small and large) only chose to exempt small numbers of vehicles and that no inequity resulted. Also, as discussed above, the self-certification provision and the revisions to the performance exemption criteria should help ease any potential negative effects by significantly reducing the cost of developing high-altitude calibrations. It should also be noted that, unlike the situation with sales exemptions, LDTs exempted via the performance exemption cannot be sold in designated high-altitude areas. Any LDT manufacturer exempting large portions of its model line (EPA is not aware of any manufacturer able to do this) would exclude itself from this market. Therefore, the Agency does not agree with GM that the performance exemption represents a significant degree of inequity.

Ford has apparently misinterpreted EPA's earlier statement concerning the environmental consequences of the sales-based exemption. The remark, as referenced by Ford, was made in the Final Rule which first extended the sales exemption from the 1982 model year into the 1983 model year (47 FR 21793). The statement was that a *one* year extension of the sales exemption would not significantly impair air quality in high-altitude areas. The air-quality effect of no high-altitude standards whatsoever for up to 30 percent of all LDTs would certainly be significant, unless one would argue that these exempted vehicles would still exhibit the necessary emission reductions at high altitude even without standards. However, given self-certification, then there would be no reason not to use engineering judgment (which is not costly) to certify these vehicles.

The Agency also disagrees with AMC's comment that the recent changes

in the definition of useful life will add significantly to the leadtime requirements for 1985 and, hence, justify retaining the sales exemption. The proposed useful life changes referred to by AMC were actually a one-year deferral of the existing useful life provisions, which have been known for some time, to ease their implementation burden. Such a deferral should not affect the leadtime needed to certify to these high-altitude standards, and therefore, does not warrant a further extension of the sales exemption.

2. The Performance Exemption Criteria

The current performance exemption criteria for 1984 and later LDTs are identical to those in effect for 1982–83 model year LDVs. These criteria are based on a simple performance model which uses well-known vehicle design parameters to predict which vehicles should have unacceptable performance at high altitude and, hence, should be exempted from the high-altitude certification requirements. Ford and GM commented that while this simple model is acceptable for LDVs it is less accurate for LDTs.

Specifically, one of the design parameters in the current model is the vehicle's equivalent test weight, which represents the weight of a partially loaded vehicle. Ford and GM argued that while this is the correct measure to use in determining the performance of LDVs, because these vehicles are seldom fully loaded, it is not true for LDTs which are often fully loaded. Instead, an LDT's performance is more closely related to its gross vehicle weight (GVW) and they recommended that this parameter be used in the performance exemption for these vehicles.

Ford, GM, and AMC also requested that the performance exemption for LDTs be revised to incorporate the improvements that were made in the performance exemption criteria for 1984 and later LDVs.

The Agency agrees that the use of GVW instead of equivalent weight in the performance model would improve predictive capability of the model, since of prime interest is worst case performance and GVW is a better indicator of interia weight in that situation. Also, the improvements made to the 1984 and later LDV performance criteria are fully applicable to LDTs. Therefore, this Final Rule amends the performance exemption provisions for 1985 and later model year LDTs: (1) To change the equivalent test weight parameter to gross vehicle weight, (2) to adopt the optional use of engine rated horsepower or engine displacement in the simple performance model, and (3) to adopt the acceleration test and acceleration modeling allowance.

IV. Technical Feasibility and Leadtime

There are no feasibility or leadtime issues associated with the amendments being made to the regulations applicable to 1984 LDVs or 1985 and later LDTs. These amendments for the most part were requested by members of the regulated industry and no adverse comments to these amendments were received.

With respect to the implementation of the all-altitude and associated requirements for 1985 and later LDVs, their feasibility has already been established in the interim final rule implementing these same requirements for the 1984 model year (48 FR 7392). However, as also indicated in that rulemaking, the Act does not actually require that EPA find the requirements of Section 206(f)(1) to be technically feasible, since Congress mandated the all-altitude requirement.

V. Economic Impact

There are no significant economic impacts associated with the amendments to the regulations applicable to 1984 LDVs or 1985 and later LDTs. These amendments either increase manufacturers' flexibility or improve model availability in high-altitude areas.

With respect to the 1985 and later LDV requirements, the economic impact will be the same as that indicated for the same all-altitude requirements for 1984 LDVs (48 FR 7392). Based on the detailed analyses contained in the High-Altitude Report to Congress,[1] EPA estimates that the purchase price of the average LDV sold nationwide will increase by about $13–$16 over that under the 1982–83 high-altitude program, or 0.12–0.15 percent of the average vehicle purchase price. From a national perspective, the aggregate 5-year cost of this mandated emission control program (for 1984 and beyond) is estimated at $263–$325 million (expressed in 1981 dollars discounted at 10 percent per annum to 1984).

VI. Environmental Impact

There are no significant environmental impacts associated with the amendments to the regulations applicable to 1984 LDVs or 1985 and later LDTs.

With respect to the all-altitude program for 1985 and later LDVs, this mandated emission control program should not affect the emissions from LDVs at low altitude. An environmental benefit will occur, however, at high altitude (refer to the High-Altitude Report to Congress [1] for details). By adopting these regulations for 1985 and later LDVs, emissions of HC and CO at high altitude will be reduced by 9 percent and 31 percent, respectively, beyond that which would have resulted from a continuation of the 1982–83 program. These emission reductions will reduce ozone levels in high-altitude urban areas by up to 1.5 percent in 1990, while CO levels in these areas will be reduced by up to 4 percent in 1990. The particulate emissions from diesel-powered LDVs sold and driven at high altitude will also be reduced. However, this reduction could not be quantified due to lack of data on the particulate emissions of high-altitude vehicles.

Legal Authority

Statutory authority for these actions is provided by sections 202(a), 206(f)(1) and 301(a) of the Clean Air Act (42 U.S.C. 7521, 7525 and 7601). Section 202(a)(1) of the Act provides, in part, that "(t)he Administrator shall by regulation prescribe * * * standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles * * * which may reasonably be anticipated to endanger the public health or welfare * * *." Section 202(a)(2) of the Act provides, in part, that "(a)ny regulation prescribed under paragraph (1) * * * shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance with such period." Section 206(f)(1) of the Act provides that "(a)ll light-duty vehicles and engines manufactured during or after model year 1984 shall comply with the requirements of section 202 of this Act regardless of the altitude at which they are sold." Section 301(a) provides, in part, that "(t)he Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.".

Note.—The 1984 model year regulations pertaining to the designation of high-altitude locations (§ 86.084-30(a)(4)(iv)) and the reclassification of heavy LDVs (§§ 86.084-2, 86.084-15, and 86.084-30(a)(3)(iii)) are being made effective immediately. The Agency finds that good cause exists for taking this action. Manufacturers have already started production of 1984 model year vehicles and, in some cases, have already begun shipping these vehicles to their dealers. Delaying the implementation of these regulations would not only reduce the overall benefit of these provisions, but would also seriously disrupt

[1] Available for review in EPA Docket No. A-80-1.

the production and marketing plans to which manufacturers have already committed. Such a disruption could result in adverse economic affects throughout the automobile industry. In addition, the reclassification of heavy LDVs should take effect immediately because it relieves a restriction that would otherwise apply to these vehicles. Finally, the immediate implementation of these regulations will have no significant competitive or environmental effects.

Judicial Review

The final actions taken today are nationally applicable. Under Section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before December 19, 1983.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it has an annual effect on the economy of less than $100 million and it involves no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB and any EPA response thereto have been placed in the dockets for this rulemaking.

Effect on Small Entities

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that EPA certify that its regulations do not have a significant impact on a substantial number of small entities. Small entities potentially affected by this regulation include the automobile dealerships selling 1985 and later LDVs throughout the nation. These dealerships could potentially be adversely affected in two ways. One, the prices of 1985 and later LDVs could increase to the point of reducing sales. Two, the availability of certain vehicle configurations could be eliminated, again reducing sales.

As has already been established with respect to the all-altitude requirement for 1984 LDVs, EPA has designed these regulations to ensure that neither situation mentioned above occurs. The cost of these regulations has already been described and should not adversely affect sales to any significant degree. Also, the existence of the performance-based exemptions and the associated requirement to certify at least one "model type" for the high-altitude market should maximize model availabiltiy at all elevations. In addition, no comments to the contrary were received in response to the proposal of this action.

The amendments to the 1984 LDV regulations and the 1984 and later LDT regulations will have no adverse effect on these dealerships. To the contrary, the majority of these amendments will increase model availability.

Therefore, I certify that these regulations do not have any significant impact on small entities.

Impacts on Reporting Requirements

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, U.S.C. 3501 et seq., and have been assigned OMB Control Number 2060–0390.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: September 19, 1983.

William D. Ruckelshaus,

Administrator.

For reasons set forth in the preamble, Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 86—[AMENDED]

1. Section 86.084–2 is amended by adding the following definition.

§ 86.084–2 Definitions.

* * * * *

"Heavy-passenger cars" means, for the 1984 model year only, a passenger car or passenger car derivative capable of seating 12 passengers or less, rated at 6,000 pounds GVW or more and having an equivalent test weight of 5,000 pounds or more.

* * * * *

2. Section 86.084–8 is amended by revising paragraphs (g), (h)(1) introductory text, (h)(1)(ii)(A), (h)(1)(iii) introductory text, (h)(1)(iv), and adding paragraph (i) to read as follows:

§ 86.084–8 Emission standards for 1984 and later model year light-duty vehicles.

* * * * *

(g) Any 1984 model year light-duty vehicle that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in § 86.082–2, except as provided in paragraphs (h) and (i) or this section. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(h) * * *

(1) A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (h)(1) (i), (ii), (iii), or (iv) of this section are met.

* * * * *

(ii) * * *

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure, J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within the test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any single model year.

* * * * *

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 miles per hour to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

* * * * *

(iv) In lieu of performing the test procedure of paragraphs (h)(1)(iii) (A) and (B) of this section, its acceleration time can be estimated on the basis of the manufacturer's engineering evaluation in accordance with good engineering practice, to meet the exemption criteria of paragraph (h)(1)(iii) of this section.

* * * * *

(i)(1) The manufacturer may exempt 1984 model year vehicles from compliance with the emission standards set forth in paragraphs (a) and (b) of this section under low-altitude conditions, as specified in § 86.082–2, if the vehicles:

(i) Are not intended for sale at low altitude; and

(ii) Are equipped with a unique, higher axle ratio (rear-wheel drive vehicles) or a unique drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other configurations of that model type which are certified in compliance with the emission standards of paragraphs (a) and (b) of this section under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been

exempted as set forth in paragraph (h)(i)(1) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

3. A new § 86.084–14 is added to read as follows:

§ 86.084–14 Small-volume manufacturers certification procedures.

(a) The small-volume manufacturers certification procedures described in paragraphs (b) and (c) of this section are optional. Small-volume manufacturers may use these optional procedures to demonstrate compliance with the general standards and specific emission requirements contained in this subpart.

(b)(1) The optional small-volume manufacturers certification procedures apply to light-duty vehicles, light-duty trucks, and heavy-duty engines produced by manufacturers with U.S. sales (for the model year in which certification is sought) of fewer than 10,000 units (LDV, LDT, and HDE combined).

(2) For the purpose of determining the applicability of paragraph (b)(1) of this section, where there is more than one importer or distributor of vehicles and/or engines manufactured by the same person, the sales the Administrator shall use shall be the aggregate of the projected or actual sales of those vehicles and/or engines by all of the importers and distributors.

(c) Small-volume manufacturers shall demonstrate compliance with the applicable sections of this subpart as follows:

(1) Sections 86.084–1 through 86.084–11 are applicable.

(2) Section 86.084–12 is not applicable.

(3) Sections 86.084–13 through 86.084–20 are applicable.

(4) Small-volume manufacturers shall include in its records all of the information that EPA requires in § 86.084–21. This information will be considered part of the manufacturer's application for certification. However, the manufacturer is not required to submit the information to the Administrator unless the Administrator requests it.

(5) Section 85.084–22 is applicable except as noted below.

(i) Small-volume light-duty vehicle and light-duty truck manufacturers may satisfy the requirements of paragraph (e) of § 86.084–22 by including a statement of compliance on adjustable parameters in the application for certification. In the statement of compliance the manufacturer shall state that the limits, stops, seals, or other means used to inhibit adjustment have been designed to accomplish their intended purpose based on good engineering practice and past experience. If the vehicle parameter is adjustable the vehicle must meet emission standards with the parameter set any place within the adjustable range (reference § 86.084–21).

(ii) Paragraphs (a), (b), (c), and (d) of § 86.084–22 are not applicable.

(6) Section 86.084–23 is applicable.

(7) Section 86.084–24 is applicable except as noted below.

(i) Small-volume manufacturers may satisfy the requirements of paragraphs (b) and (c) of § 86.084–24 by:

(A) Selecting emission-data test vehicles (engines) by the worst case emissions criteria as follows:

(1) Light-duty vehicles and light-duty trucks. The test vehicle shall be selected based on the following criteria: The manufacturer shall select the heaviest (including options) vehicle within the family. Then within that vehicle it shall select, in the order listed, the largest frontal area, largest displacement, the highest numerical axle ratio with the largest tire offered in the engine family, and the maximum fuel flow calibration.

(2) Heavy-duty gasoline fueled engines. The manufacturer shall select the worst case emission-data engine first based on the largest displacement within the engine family. Then within the largest displacement the manufacturer shall select, in the order listed, highest fuel flow at the speed of maximum rated torque, the engine with the most advance spark timing, no EGR or lowest EGR flow, and no air pump or lowest actual flow air pump.

(3) Heavy-duty diesel engines. The manufacturer shall select the worst case emission data engine based on the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed.

(B) Testing light-duty vehicle or light-duty truck emission-data vehicles at any service accumulation distance less than 6,436 kilometers (4,000 miles) or heavy-duty engine emission-data engines at any service accumulation time less than 125 hours.

(C) Using assigned deterioration factors that the Administrator determines and prescribes. However, the manufacturer may, at its option, accumulate miles (hours) on a durability-data vehicle (engine) and complete emission tests for the purpose of establishing its own deterioration factor.

(ii) Paragraphs (d) and (e) of § 86.084–24 are not applicable.

(8) Section 86.084–25 is applicable to durability-data light-duty vehicles, light-duty trucks, and heavy-duty engines if the manufacturer does not use assigned deterioration factors.

(9) Sections 86–084–26 and 86.084–27 are not applicable.

(10) Sections 86.084–28 and 86.084–29 are applicable.

(11)(i) Section 86.084–30 of this subpart is applicable, except for paragraph (a)(2) and (b) of that section. In the place of these paragraphs, small-volume manufacturers shall comply with paragraphs (c)(11)(ii) through (v) of this section.

(ii) Small-volume manufacturers shall submit an application for certification containing the following:

(A) The names, addresses, and telephone numbers of the persons the manufacturer authorizes to communicate with us.

(B) A brief description of the vehicles (or engines) covered by the certificate (the manufacturers' sales data book or advertising, including specifications, may satisfy this requirement for most manufacturers). The description shall include, as a minimum, the following items as applicable:

(*1*) Engine families and vehicles (or engine) configurations.

(*2*) Vehicle or engine models to be listed on the certificate of conformity.

(*3*) The test weight and horsepower setting for each vehicle or engine configuration.

(*4*) Projected sales.

(*5*) Combustion cycle.

(*6*) Cooling mechanism.

(*7*) Number of cylinders.

(*8*) Displacement.

(*9*) Fuel system type.

(*10*) Number of catalytic converters, volume, and composition.

(*11*) Method of air aspiration.

(*12*) Thermal reactor characteristics.

(*13*) Suppliers' and/or manufacture's name and model number of any emission-related items identified in paragraph (c)(11)(ii)(B)(*1*) through (*12*) of this section, items if purchased from a supplier who uses the items in its own certified vehicles(s) or engine(s).

(*14*) A list of emission component part numbers

(*15*) Drawings, calibration curves, and descriptions of emission related components, including those components regulated under paragraph (e) of § 86.084–22, and schematics of hoses and other devices connecting these components.

(*16*) Vehicle adjustments or modifications necessary for light-duty trucks to assure that they conform to high-altitude standards.

(*17*) A description of the light-duty vehicles and light-duty trucks that are exempted from either the low- or high-altitude emission standards, as applicable.

(C) The results of all emission tests the manufacturer performs to demonstrate compliance with the applicable standards.

(D)(*1*) The following statement signed by the authorized representative of the manufacturer: "The vehicles (or engines) described herein have been tested in accordance with [list of the applicable Subparts A, B, D, I, N, or P] of Part 86, Title 40, United States Code of Federal Regulations, and on the basis of those tests are in conformance with that subpart. All of the data and records required by that subpart are on file and are available for inspection by the EPA Administrator. We project the total U.S. sales of vehicles (engines) subject to this subpart to be fewer than 10,000 units."

(*2*) A statement as required by and contained in paragraph (c)(5) of § 86.084–14 signed by the authorized representative of the manufacturer.

(*3*) A statement that the vehicles or engines described in the manufacturers application for certification are not equipped with auxiliary emission control devices which can be classified as a defeat device as defined in § 86.084–2.

(*4*) A statement of compliance with Section 206(a)(3) of the Clean Air Act.

(*5*) A statement that, based on the manufacturer's engineering evaluation and/or emission testing, the light-duty vehicles comply with emission standards at high altitude unless exempt under paragraph (h) of § 86.084–8.

(*6*) A statement that, based on the manufacturers engineering evaluation and/or emission testing, the light-duty trucks sold for principle use at designated high-altitude locations comply with the high-altitude emission requirements and that all other light-duty trucks are at least capable of being modified to meet high-altitude standards unless exempt under paragraph (g)(2) of § 86.084–9.

(iii) If the manufacturer meets requirements of this subpart, the Administrator will issue a certificate of conformity for the vehicles described in the application for certification.

(iv) The certificate will be issued for such a period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any vehicle or engine covered by the certificate will meet the requirements of the Act and of this subpart.

(v)(A) If, after a review of the statements and descriptions submitted by the manufacturer, the Administrator determines that the manufacturer has not met the applicable requirements, the Administrator shall notify the manufacturer in writing, setting forth the basis for his determination. The manufacturer may request a hearing on the Administrator's determination.

(B) If the manufacturer does not request a hearing or present the required information the Administrator will deny certification.

(12) Sections 86.084–31 and 86.084–32 are not applicable.

(13) Under § 86.084–33, small-volume manufacturers are covered by the following.

(i) Small-volume manufacturers may make production changes (running changes) without receiving the Administrator's prior approval. The manufacturer shall assure (by conducting emission tests as it deems necessary) that the affected vehicles (engines) remain in compliance with the requirements of this part.

(ii) The manufacturer shall notify the Administrator within seven days after implementing any production related change (running change) that would affect vehicle emissions. This notification shall include any changes to the information required under paragraph (c)(11)(ii) of this section. The manufacturer shall also amend as necessary its records required under paragraph (c)(4) of this section to conform with the production design change.

(14) Section 86.084–34 is not applicable.

(15) Sections 86.084–35 through 86.084–39 are applicable.

4. A new § 86.084–15 is added to read as follows:

§ 86.084–15 Emission standards for 1984 model year heavy-passenger cars.

(a)(1) Model year 1984 heavy-passenger cars shall not exceed the following exhaust emission standards when tested under low-altitude conditions.

(i) *Hydrocarbons.* 0.41 gram per vehicle mile (0.255 gram per vehicle kilometer);

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile (2.11 grams per vehicle kilometer);

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile (0.62 gram per vehicle kilometer).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part for light-duty vehicles, except as otherwise provided, and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1984 model year heavy-passenger cars shall not exceed when tested under low-altitude conditions: *Hydrocarbons.* 2.0 grams per test.

(2) The standards set forth in paragraph (b)(1) of this section refer to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part for light-duty vehicles, except as otherwise provided, and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1984 model year heavy-passenger car.

(d)(1) Model year 1984 heavy-passenger cars shall not exceed the following exhaust emission standards when tested under high-altitude conditions:

(i) *Hydrocarbons.* 0.57 grams per vehicle mile (0.35 gram per vehicle kilometer).

(ii) *Carbon monoxide.* 7.8 grams per vehicle mile (4.8 grams per vehicle kilometer).

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile (0.62 gram per vehicle kilometer).

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part for light-duty vehicles, except as otherwise provided, and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1984 model year heavy-passenger cars shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part for light-duty vehicles, except as otherwise provided, and measured in accordance with those procedures.

(f) Any 1984 model year heavy-passenger car that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in § 86.082–2, as applicable. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher that 4,000 feet above sea level.

(g) Except as otherwise provided in this part, heavy passenger cars are subject to the provisions applicable to light-duty vehicles in this part and in Part 85 of 40 CFR.

5. Section 86.084–24 is amended by revising paragraphs (b)(1)(v)(B)(*2*) and (b)(1)(viii)(B)(*2*) to read as follows:

§ 86.084–24 Test vehicles and engines.

* * * * *

(b) * * *
(1) * * *
(v) * * *
(B) * * *

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements unless exempt under § 86.084–9(g)(2), and that all light-duty trucks sold for principal use at low altitude, which are not exempt under § 86.084–9(g) (2) or (4), are capable of being modified to meet high-altitude standards.

* * * * *

(viii) * * *
(B) * * *

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements unless exempt under § 86.084–9(g)(2), and that all light-duty trucks sold for principal use at low altitude, which are not exempt under § 86.084–9(g) (2) or (4), are capable of being modified to meet high-altitude standards.

* * * * *

6. Section 86.084–26 is amended by revising the title and paragraphs (a)(3)(i)(D), (a)(3)(ii)(D), (b)(4)(i)(D), and (b)(4)(ii)(D) as follows:

§ 86.084–26 Mileage and service accumulation; emission measurements.

(a) * * *
(3) * * *
(i) * * *

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.084–24(b)(1)(i) through (iv) to be tested under high-altitude conditions or provide a statement in accordance with § 86.084–24(b)(1)(v). Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(ii) * * *

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.084–24(b)(1)(i) through (iv) to be tested under high-altitude conditions or provide a statement in accordance with § 86.084–24(b)(1)(v). Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

* * * * *

(b) * * *
(4) * * *
(i) * * *

(D) If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle selected under § 86.084.24(b)(1)(v) and (viii) (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

(ii) * * *

(D) If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle selected under § 86.084–24(b)(1)(v) and (viii) (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

* * * * *

7. Section 86.084–30 is amended by revising paragraphs (a)(3)(iii), (a)(4), and (a)(5) (iii) and (iv) to read as follows:

§ 86.084–30 Certification.

(a) * * *
(3) * * *

(iii) *Heavy Passenger Cars.* Each certificate will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards.

(4)(i) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of Section 203(a)(3) of the Clean Air Act.

(ii) A violation of Section 203(a)(1) of the Clean Air Act occurs, except as provided for in § 86.084–9(g)(3) for light-duty trucks, when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in the remainder of this paragraph.

(A) When a light-duty vehicle or light-duty truck is not configured to meet high-altitude requirements:

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(*2*) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(B) When a light-duty vehicle is not configured to meet low-altitude requirements, as provided in § 86.084–8 (i):

(*1*) At a designated low-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated low-altitude location; or

(*2*) At a location other than a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle that has been exempted from compliance with emission standards at high-altitude, or a light-duty truck which is not configured to meet high-altitude requirements, will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iii) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who

represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a state or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle which has been exempted from compliance with emission standards at low-altitude, as provided in § 86.084–8(i), will not be sold to an ultimate purchaser for principal use at a designated low-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iv) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated low-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; requiring dealers in counties contiguous to designated low-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a low-altitude location or in counties contiguous to low-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of high-altitude vehicles by low-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser for principal use at a designated low-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a state or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser residing in a designated low-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iv) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet low-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(5) * * *

(iii) For the purpose of paragraph (a) of this section, a "designated low-altitude location" is any county which has substantially all of its area located below 1,219 meters (4,000 feet).

(iv) The designated low-altitude locations so defined include all counties in the United States which are not listed in either paragraph (a)(5)(ii) of this section or in the list below:

State of Arizona

Apache	Navajo
Cochise	Yavapai
Coconino	

State of Idaho

Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Blaine	Lemhi
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Teton
Clark	Valley
Custer	

State of Montana

Beaverhead	Meagher
Deer Lodge	Park
Gallatin	Powell
Jefferson	Silver Bow
Judith Basin	Wheatland
Madison	

State of Nebraska

Banner	Kimball
Cheyenne	Sioux

State of Oregon

Harney	Lake
Klamath	

State of Texas

Jeff Davis	Parmer
Hudspeth	

State of Wyoming

Albany	Natrona
Campbell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

* * * * *

8. Section 86.084–35 is amended by adding paragraph (a)(1)(iii)(G), redesignating paragraph (a)(2)(iii)(G) as (a)(2)(iii)(H), redesignating paragraph (a)(2)(iii)(H) concerning the useful life period as (a)(2)(iii)(G), redesignating the other paragraph (a)(2)(iii)(H) concerning high-altitude requirements as (a)(2)(iii)(I), redesignating paragraph (a)(2)(iii)(I) as (a)(2)(iii)(J), and redesignating paragraph (a)(2)(iii)(J) as (a)(2)(iii)(K) to read as follows:

§ 86.084–35 Labeling.

(a) * * *

(1) * * *

(iii) * * *

(G) A statement, if applicable, that the vehicle has been exempted from compliance with the emission standards at low-altitude as specified in § 86.084–8(i) and, as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at low altitude.

(2) * * *

(iii) * * *

(G) For light-duty truck engine families whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2, an unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty trucks. These vehicles need not comply with the labeling requirements in paragraphs (a)(2)(iii) (E) and (F) of this section.

(H) A statement if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified.

(I) A statement, if applicable, that the high-altitude vehicle was designed or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser.

(J) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emission standards as specified in § 86.084–9(g)(4) and that its unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude.

(K) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emissions standards as specified in § 86.084–9(g)(2) and, as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude.

* * * * *

9. Section 86.085–8 is amended by adding paragraphs (d) through (i) to read as follows:

§ 86.085–8 Emission standards for 1985 and later model year light-duty vehicles.

* * * * *

(d) [Reserved]

(e) [Reserved]

(f) [Reserved]

(g) Any 1985 and later model year light-duty vehicle that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in § 86.082–2, except as provided in paragraphs (h) and (i) of this section. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(h) The manufacturer may exempt 1985 model year vehicles from compliance at high altitude with the emission standards set forth in paragraphs (a) and (b) of this section if the vehicles are not intended for sale at high altitude and if the requirements of paragraphs (h) (1) and (2) of this section are met.

(1) A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (h)(1) (i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.5}$, where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.5}$, where the constant, C is the same as that found in paragraph (h)(1)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (h)(1)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.5}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (h)(1)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (h)(1)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 miles per hour to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of

that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (h)(1)(iii)(A) of this section above.

(iv) In lieu of performing the test procedure of paragraphs (h)(1)(iii) (A) and (B) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (h)(1)(iii) of this section.

(2) A vehicle shall only be considered eligible for exemption under this paragraph if at least one configuration of its model type (and transmission configuration in the case of vehicles equipped with manual transmissions, excluding differences due to the presence of overdrive) is certified to meet emission standards under high-altitude conditions as specified in paragraphs (a) through (g) of this section. The Certificate of Conformity (the Certificate) covering any exempted configuration(s) will also apply to the corresponding non-exempt configuration(s) required under this subparagraph. As a condition to the exemption, any suspension, revocation, voiding, or withdrawal of the Certificate as it applies to a non-exempt configuration for any reason will result in a suspension of the Certificate as it applies to the corresponding exempted configuration(s) of that model type, unless there is at least one other corresponding non-exempt configuration of the same model type still covered by the Certificate. The suspension of the Certificate as it applies to the exempted configuration(s) will be terminated when any one of the following occurs:

(i) Another corresponding non-exempt configuration(s) receive(s) coverage under the Certificate; or

(ii) Suspension of the Certificate as it applies to the corresponding non-exempt configuration(s) is terminated; or

(iii) The Agency's action(s), with respect to suspension, revocation, or voiding of the Certificate as it applies to the corresponding non-exempt configuration(s), is reversed.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (h) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

(i)(1) The manufacturers may exempt 1985 and later model year vehicles from compliance at low altitude with the emission standards set forth in paragraphs (a) and (b) of this section if the vehicles:

(i) Are not intended for sale at low altitude; and

(ii) Are equipped with a unique, high-altitude axle ratio (rear-wheel drive vehicles) or a unique, high-altitude drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other configurations of that model type which are certified in compliance with the emission standards of paragraphs (a) and (b) of this section under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been exempted as set forth in paragraph (i) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

10. Section 86.085–9 is amended by adding paragraphs (d) and (e) and revising paragraph (g) to read as follows:

§ 86.085–9 Emission standards for 1985 and later model year light-duty trucks.

* * * * *

(d)(1) Model year 1985 and later light-duty trucks sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions:

(i) *Hydrocarbons.* 1.0 gram per vehicle mile (0.62 grams per vehicle kilometer);

(ii) *Carbon Monoxide.* 14.0 grams per vehicle mile (8.7 grams per vehicle kilometer);

(iii) *Oxides of Nitrogen.* 2.3 grams per vehicle mile (1.43 grams per vehicle kilometer);

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1985 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

* * * * *

(g)(1) Any light-duty truck that a manufacturer wishes to certify for sale at low altitude must be capable of meeting high-altitude emission standards (specified in paragraphs (d) through (f) of this section). The manufacturer may specify vehicle adjustments or modifications to allow the vehicle to meet high-altitude standards but these adjustments or modifications may not alter the vehicle's basic engine, inertia weight class, transmission configuration, and axle ratio.

(i) A manufacturer may certify unique configurations to meet the high-altitude standards but is not required to certify these vehicle configurations to meet the low-altitude standards.

(ii) Any adjustments or modifications that are recommended to be performed on vehicles to satisfy the requirements or paragraph (g)(1) of this section:

(A) Shall be capable of being effectively performed by commercial repair facilities.

(B) Must be included in the manufacturer's application for certification.

(2) The manufacturer may exempt 1985 and later model year vehicles from compliance with the high-altitude emission standards set forth in paragraphs (d) and (e) of this section if the vehicles are not intended for sale at high altitude and if the following requirements are met. A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (g)(2)(i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the gross vehicle weight (GVW) expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or

the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, C is the same as that found in paragraph (g)(2)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (g)(2)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (g)(2)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (g)(2)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 miles per hour to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (g)(2)(iii)(A) of this section.

(iv) In lieu of performing the test procedure of paragraph (g)(2)(iii) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (g)(2)(iii) of this section.

* * * * *

11. A new § 86.085–15 is added and reserved as follows:

§ 86.085–15 [Reserved]

12. Section 86.085–24 is amended by adding paragraphs (b)(1)(v)(B)(*1*) and (b)(1)(viii)(B)(*1*) and revising paragraphs (b)(1)(v)(B)(*2*) and (b)(1)(viii)(B)(*2*) to read as follows:

§ 86.085–24 Test vehicles and engines.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(B) * * *

(*1*) That all light-duty vehicles not exempt under § 86.085–8(h) comply with the emission standards at high altitude, and

(*2*) that light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low altitude, which are not exempt under § 86.085–9(g)(2), are capable of being modified to meet high-altitude standards.

* * * * *

(viii) * * *

(B) * * *

(*1*) That all light-duty vehicles not exempt under § 86.085–8(h) comply with the emission standards at high altitude, and

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low altitude, which are not exempt under § 86.085–9(g)(2), are capable of being modified to meet high-altitude standards.

* * * * *

13. Section 86.085–30 is amended by revising paragraphs (a)(4) and (a)(5) (iii) and (iv) to read as follows:

§86.085–30 Certification.

(a) * * *

(4)(i) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of Section 203(a)(3) of the Clean Air Act.

(ii) A violation of Section 203(a)(1) of the Clean Air Act occurs when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in the remainder of this paragraph.

(A) When a light-duty vehicle or light-duty truck is not configured to meet high-altitude requirements:

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(*2*) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(B) When a light-duty vehicle is not configured to meet low-altitude requirements, as provided in § 86.085–8(i):

(*1*) At a designated low-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated low-altitude location; or

(*2*) At a location other than a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle that has been exempted from compliance with emission standards at high-altitude, or a light-duty truck which is not configured to meet high-altitude requirements, will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iii) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated high-altitude locations to submit written

statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle which has been exempted from compliance with emission standards to low-altitude, as provided in § 86.084–8(i), will not be sold to an ultimate purchaser for principal use at a designated low-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iv) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated low-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; requiring dealers in counties contiguous to designated low-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a low-altitude location or in counties contiguous to low-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of high-altitude vehicles by low-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser for principal use at a designated low-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser residing in a designated low-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iv) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet low-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(5) * * *

(iii) For the purpose of paragraph (a) of this section, a "designated low-altitude location" is any county which has substantially all of its area located below 1,219 meters (4,000 feet).

(iv) The designated low-altitude locations so defined include all counties in the United States which are not listed in either paragraph (a)(5)(ii) of this section or in the list below:

State of Arizona

Apache, Cochise, Coconino, Navajo, Yavapai.

State of Idaho

Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Jefferson,

Lemhi, Madison, Minidoka, Oneida, Power, Teton, Valley.

State of Montana

Beaverhead, Deer Lodge, Gallatin, Jefferson, Judith Basin, Madison, Meagher, Park, Powell, Silver Bow, Wheatland.

State of Nebraska

Banner, Cheyenne, Kimball, Sioux.

State of Oregon

Harney, Klamath, Lake.

State of Texas

Jeff Davis, Hudspeth, Parmer

State of Wyoming

Albany, Campbell, Carbon, Converse, Fremont, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Park, Platte, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

* * * * *

14. Section 86.085–35 is amended by revising paragraph (a)(1)(iii)(D), adding paragraphs (a)(1)(iii)(G) and (a)(1)(iii)(H), combining and revising paragraphs (a)(2)(iii)(I) and (a)(2)(iii)(J) as (a)(2)(iii)(I), and reserving (a)(2)(iii)(J) to read as follows:

§ 86.085–35 Labeling.

(a) * * *

(1) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family particulate emission limit, as applicable), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., Idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation.

* * * * *

(G) For vehicles that have been exempted from compliance with the emission standards at high altitude, as specified in § 86.085–8(h),

(*1*) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(*2*) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(*3*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude;

(H) For vehicles that have been exempted from compliance with the emission standards at low altitude, as specified in § 86.085–8(i),

(*1*) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at high altitude only, and

(*2*) A statement that emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at low altitude.

(2) * * *

(iii) * * *

(I) For vehicles that have been exempted from compliance with the high-altitude emission standards, as specified in § 86.085–9(g)(2),

(*1*) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(*2*) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(*3*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude;

(J) [Reserved]

* * * * *

[FR Doc. 83–28312 Filed 10–18–83; 8:45 am]

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federal register

Wednesday
October 19, 1983

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

The Fishermen's Protective Act Procedures

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

[Docket No. 309 26-195]

The Fishermen's Protective Act Procedures

AGENCY: National Oceanic and Atmospheric Administration, NOAA, Commerce.

ACTION: Final rule.

SUMMARY: The Fishermen's Protective Act requires fees from participating vessel owners. These fees are used for a vessel seizure compensation program. This amendment will establish fees for the agreement year beginning October 1, 1983.

EFFECTIVE DATE: October 1, 1983, through September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone number (202) 634-7496.

SUPPLEMENTARY INFORMATION: Section 7 of the Fishermen's Protective Act (22 U.S.C. 1971-1980) compensates certain losses caused by a foreign country's detention of a United States fishing vessel based on oceanic rights not recognized by the United States. Pre-existing agreements are required for compensation. Annual agreement fees are established by amendment of these rules.

All agreements holders for the year ending September 30, 1983, who wish their agreements extended through September 30, 1984, by amendment (rather than entering into an entirely new agreement) must submit the fees required by this rules amendment. The fees are due on October 1, 1983, but are not payable until November 15, 1983. Failure to pay the fees by November 15, 1983, will result in agreement termination retroactive to October 1, 1983.

Program fees are established in accordance with Section 7 and Administration policy. Section 7 requires fees cover program administrative costs and at least 25 percent of claims. Administration policy requires fees to fund program costs to the maximum extent possible. Fiscal year 1983 fees covered almost 100 percent of claim payments in that year. Fiscal year 1984 claims payments are expected to be at least as much as fiscal year 1983. Fiscal year 1984 fees will remain the same as fiscal year 1983 fees ($16 per gross ton).

Classification

As a "matter relating to Agency • • • contracts," this rule is exempt from the notice and comment provisions of the Administrative Procedure Act. This means analysis under the Regulatory Flexibility Act is not required.

The Administrator of the National Oceanic and Atmospheric Administration has reviewed this final rulemaking in accordance with the specifications of Executive Order 12291 and determined that it is not a major rule since it has no effect on the economy, cost or prices; no impact on regulatory impact analysis is required.

No additional information collection will be required. The information collection from applicants for guaranty agreements has been approved by the Office of Management and Budget, control number 0648-0095.

The Assistant Administrator has determined that this rulemaking does not require the preparation of an environmental impact statement under the National Environmental Policy Act.

List of Subjects on in 50 CFR Part 258

Claims, Fisheries, Fishing vessels, Indemnity payments, Insurance, Loan programs—business, Penalties.

Dated October 14, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

PART 258—[AMENDED]

Accordingly, § 258.5 of the Fishermen's Protective Act Procedures (50 CFR Part 258) is amended to read as follows:

1. The authority citation for Part 258 reads as follows:

Authority: Section 7, 82 Stat. 729; 22 U.S.C. 1977; Reorg. Plan No. 4 of 1970, unless otherwise noted.

2. Section 258.5 is revised to read as follows:

§ 258.5 Fees.

(a) Fees must pay administrative costs and a minimum of at least 25 percent of estimated claim payments. Fees are based on past and projected experience. Fees may be adjusted at any time by amending this part.

(b) Guaranty agreement fees for the agreement year October 1, 1983, through September 30, 1984, are $16 per gross vessel ton as listed on an agreement vessel's document. Fractions of a ton are excluded.

(c) No fees will be returned after a guaranty agreement is executed by the Secretary.

(d) A guaranty agreement may, with the Secretary's consent, be assigned to a new owner of an agreement vessel if the vessel is transferred during the agreement period.

(e) All holders of agreements for the agreement year ending September 30, 1983, who wish them extended through September 30, 1984, by amendment (rather than entering into an entirely new agreement) must submit their fees not later than November 15, 1983. Although the fees are due October 1, 1983, may be paid as late as November 15, 1983. Failure to submit fees by November 15, 1983, will result in agreement termination retroactive to October 1, 1983; a new agreement may be entered into, but it will be effective only from the date the fees are received.

[FR Doc. 83-28439 Filed 10-18-83; 8:45 am]

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federal register

Wednesday
October 19, 1983

Part V

Department of Transportation

National Highway Traffic Safety Administration

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 32]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes several alternative actions to provide protection for an automobile's front seat occupants in case of frontal, side-impact, and roll-over accidents. This rulemaking is part of the further agency review contemplated by the recent Supreme Court decision that found the Department of Transportation's National Highway Traffic Safety Administration's (NHTSA's) October 1981 rescission of the automatic occupant restraint requirements of Federal Motor Vehicle Safety Standard 208, Occupant Crash Protection, to be arbitrary and capricious.

DATES: *Public Comments*—Comments on this notice must be received on or before December 19, 1983.

Public Meetings—Public meetings will be held on November 28–29, 1983, in Los Angeles, California; December 1–2 in Kansas City, Missouri; and December 5–6, in Washington, D.C. The exact time and location of the meetings will be announced in a subsequent notice that will be published in the **Federal Register** in the near future.

ADDRESS: Comments should refer to the docket and notice numbers set forth above and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are 8:00 a.m. to 4:00 p.m. (e.d.t.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Hitchcock, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–0842).

SUPPLEMENTARY INFORMATION:

I. Background

The 1981 Rescission

On October 23, 1981, NHTSA issued an order pursuant to section 103 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, amending Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208; "FMVSS 208"), by rescinding the provisions that would have required the front seating positions in all new cars to be equipped with automatic restraints (46 FR 53419; October 29, 1981).

In rescinding the automatic restraint requirement, the agency noted that the facts had changed radically since the 1977 promulgation of the requirement. In 1977, the agency had assumed that airbags would be installed in 60 percent of new cars and automatic belts in the remaining 40 percent. However, based on comments by the car manufacturers in 1981, the NHTSA Administrator found that airbags would actually be used in less than one percent of new cars. He found, further, that the type of automatic belt that the manufacturers planned to install in most of the remaining 99 percent of new cars was readily detachable and was not equipped with any device to compel reattachment.

He considered data regarding the usage rates of various types of automatic belts, ones that were either not detachable or that were equipped with an ignition interlock, and concluded that there was no relevant evidence regarding the likely usage rates of detachable automatic belts without interlocks. He concluded also that the similarity of the detachable automatic belt to the conventional manual lap and shoulder belt might lead many motorists to treat and use that type of belt in the same fashion and to the same extent as they currently do the manual belts. The Administrator, therefore, stated that he has no reliable basis on which to predict that the detachable automatic belt without an interlock would increase belt usage. Accordingly, he stated that he was unable to find that the automatic restraint requirement would meet the need for safety.

Due to the possibly minimal safety benefits and substantial compliance costs of the requirement, the Administrator said that he was also unable to find that the requirement was practicable or reasonable as required by the Act. Finally, the Administrator noted that implementation of the requirements might cause long lasting damage to the ability of the agency to gain the public's cooperation in its safety efforts.

The Court of Appeals' Opinion

In late November 1981, petitions for judicial review of the agency's rescission were filed with the U.S. Court of Appeals for the D.C. Circuit by State Farm Mutual Automobile Insurance Company and by the National Association of Independent Insurers. On June 1, 1982, the Court entered an opinion overturning the rescission as arbitrary and capricious. *State Farm* v. *DOT*, 680, F.2d 206.

The Supreme Court's Opinion

In September 1982, the agency filed a petition for certiorari with the U.S. Supreme Court seeking review of the Court of Appeals' decision. Additional petitions for certiorari were filed by the Motor Vehicle Manufacturers Association, Consumer Alert and the Pacific Legal Foundation. The Supreme Court granted these petitions on November 8, 1982. In response, the Court of Appeals entered an order recalling its mandate.

On June 24, 1983, the Supreme court held that NHTSA's rescission of the automatic restraint requirement was arbitrary and capricious. *Motor Vehicle Manufacturer's Association* v. *State Farm Mutual Automobile Insurance Co.*, 103 S. Ct. 2856. (Subsequent references to this decision will be to *"State Farm"* and a page number from the decision.) It said that the agency had failed to present an adequate basis and explanation for rescinding the requirement. The Court stated, also, that the agency must either consider the matter further or adhere to or amend the standard along the lines that its analysis supports. Specifically, the Court unanimously held that the agency has not given adequate consideration to modifying the requirement to require installation of airbags; such consideration was necessary because airbags were both a policy and technological alternative within the existing automatic restraint requirement.

The Court found that, even if the agency were correct that detachable automatic belts without interlocks would yield few benefits, that fact alone would not justify rescission. Instead, it would justify only the modification of the requirement to prohibit the compliance by means of that type of automatic belt. The Court also unanimously held that NHTSA had not given adequate consideration to requiring that automatic belts be continuous (i.e., nondetachable) instead of detachable.

By a five to four vote, the Court held that the agency had been too quick in dismissing the benefits of detachable automatic belts without interlocks. The Court stated that the agency's explanation of its rescission was not sufficient to enable the Court to conclude that the agency's action was the product of reasoned decisionmaking. The Court found that the agency had not taken account of the critical difference between detachable automatic belts without interlocks and current manual belts. "A detached passive belt does

require an affirmative act to reconnect it, but—unlike a manual seatbelt—the passive belt, once reattached, will continue to function automatically unless again disconnected." *State Farm* at 2872.

Based on its rejection of the Court of Appeals' view regarding the standard of review and some of that Court's reasoning regarding the arbitrariness and capriciousness of the agency's rescission, the Supreme Court vacated the judgment of that court. It further remanded the case to the Court of Appeals with directions to remand the matter to the Department for further consideration consistent with the Supreme Court's opinion. In so doing, the Court noted that the agency had sufficient justification to suspend the automatic restraint requirement pending the further consideration required by its opinion.

The Court of Appeals remanded the matter to the Department effective September 23, 1983.

The 1983 Suspension

On September 1, 1983, the Department suspended the automatic restraint requirement for one year to ensure sufficient time was available for considering the issues raised by the Supreme Court's decision (48 FR 39908). The Department concluded that suspension was justified because compliance by that date would have been impracticable and it would have been inappropriate to require it during the review period.

The Department said that, at the completion of the rulemaking, it would establish an appropriate effective date either for the rule that was rescinded, if we decide to retain it, or for any other action that we take, including re-rescission of the rule.

The Statute

Pursuant to the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381, et seq.) ("the Act"), the Department of Transportation/National Highway Traffic Safety Administration is directed to "reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents." The Act authorizes the Secretary of Transportation to issue motor vehicle safety standards that "shall be practicable, shall meet the need for motor vehicle safety, and shall be stated in objective terms." In issuing these standards, the Secretary is directed to consider "relevant available motor vehicle data, " whether the proposed standard "is reasonable, practicable and appropriate" for the particular type of motor vehicle, and the "extent to which such standards will contribute to carrying out the purposes" of the Act.

No special procedural requirements apply to the issuance of orders under the Act, except for any order that *establishes* an automatic restraint requirement. Before issuing such an order, the Secretary was required to provide a public hearing at which any Member of Congress so desiring might speak. Any such order was also subject to a two-House legislative veto. (Such legislative veto provisions were recently declared invalid categorically in *Immigration and Naturalization Service* v. *Chadha*, 103 S. Ct. 2764 (1983).)

The Safety Problem

According to data from the Department's Fatal Accident Reporting System (FARS), occupants of front seats in passenger cars account for almost half of the deaths that occur annually in motor vehicle accidents (including pedestrian fatalities). In recent years (1979–1982), an average of approximately 24,000 persons have been killed annually in the front seats of passenger cars. Almost three-quarters, or 18,000, of those front seat occupants were drivers, while one-quarter, or approximately 6,000, were passengers sitting in the front seat. For 1981, data from the Department's National Accident Sampling System (NASS) indicate that the annual number of moderate (240,000), serious (71,000), severe (15,000) and critical (4,700) injuries to front seat occupants in cars totaled about 331,000, distributed among the front seating positions in largely the same proportion as fatalities involving front seat occupants. The figures for 1982 were lower: 21,000 fatalities and a corresponding reduction in injuries. (More precise data on injuries for 1982 will not be compiled for several months.)

Approximately 55 percent of these fatalities and injuries occur in frontal impacts and another 25 percent occur in side impacts. Almost all deaths and injuries of these front seat occupants occur when they are thrown against the car's interior or thrown out of the vehicle (which increases the probability of fatality even more than the first hazard). Restraint of occupants to protect against these hazards has long been recognized as being one of the most effective means of substantially reducing the fatalities and injuries.

The Rule

FMVSS 208 (49 CFR 571.208) addresses generally the protection of vehicle occupants in case of frontal, side-impact, and roll-over accidents. Since the initial issuance of this rule, there have been approximately 60 rulemaking documents issued with respect to it. In the following discussion, only the most important of these are covered.

As originally issued in 1967, FMVSS 208 merely required manual seatbelts ("manual" meaning that they required some action by the occupant to make them effective) (32 FR 2408, 2415; February 3, 1967). [This and other technologies are described in a subsequent section entitled "Current Occupant Restraint Technology."] Since an unacceptably large percentage (80 percent) of motor vehicle occupants were not utilizing their manual belts, in 1970, the agency amended FMVSS 208 to include requirements for installation of automatic restraints (those requiring for their effectiveness no action in addition to the action required to start the vehicle itself) in cars (35 FR 16927; November 3, 1970). From July 1, 1973, to June 30, 1974, automatic restraints were to be provided for front seating positions. On or after July 1, 1974, all seating positions were to be equipped with automatic restraints. At that time, the Department believed that the primary available technology was the airbag. In 1971, when the industry developed automatic belts that met the standard, the standard was amended to permit their use.

After these requirements were adjusted slightly and the two effective dates delayed to August 15, 1973, and August 15, 1975, respectively (36 FR 4600; March 10, 1971), most passenger car manufacturers petitioned for judicial review of the automatic restraint requirements. After these petitions were filed, the Department adopted an additional option for the August 1973 to August 1975 period (37 FR 3911; February 24, 1972). It permitted compliance by means of manual lap and shoulder belts, together with an ignition interlock that prevented the starting of a car unless the belts were connected.

On review, the agency's decision to require automatic restraints was upheld. *Chrysler Corporation* v. *Department of Transportation*, 472 F.2d 659 (6th Cir., 1972). However, the Court held that the portion of FMVSS 208's testing procedures depending on an anthropomorphic test dummy did not satisfy the Act's requirement that the standard be objective. The practical effects of this decision were the invalidation of the existing automatic restraint options and the suspension of the future automatic restraint requirement.

Although the shortcomings in the automatic restraint testing procedures

were subsequently corrected, most of the industry elected to comply with FMVSS 208 in Model Years 1974 and 1975 ("MY 74 and 75;" September 1, 1973 and 1974) by installing manual belts and an ignition interlock. Public irritation with the interlock led Congress in 1974 to amend the Act to prohibit any motor vehicle safety standard from requiring or even permitting compliance by means of an ignition interlock or a continuous buzzer to indicate that safety belts are not in use.

In April 1974, the Department issued a rule requiring that automatic belts have a push buttom release mechanism to facilitate emergency egress after an accident and be wired to an ignition interlock and continuous buzzer to encourage reattachment of the belts if they were ever disconnected (39 FR 14593; April 24, 1974). In response to the 1974 amendments to the Act, the Department not only eliminated the ignition interlock provision from the option for manual belts and interlocks but also from the automatic restraint option (39 FR 38380; October 31, 1974).

In 1975, the Department deleted the suspended automatic restraint requirement and extended the three options regarding automatic and manual belts for an additional year; i.e., until MY 77 (40 FR 33977; August 13, 1975). In June 1976, then Secretary Coleman initiated a rulemaking to reissue an automatic restraint requirement or take other action regarding future occupant restraint requirements (41 FR 24070; June 14, 1976). Although he believed that automatic restraints were technologically and economically feasible, he did not reissue an automatic restraint requirement. Instead, he indefinitely extended the existing automatic and manual options (42 FR 5071; January 27, 1977).

To deal with the problem raised in the rulemaking record about possible public resistance to automatic restraints, he decided to conduct a program to demonstrate the effectiveness of those restraints and thereby reduce public misinformation and apprehension. To that end, he negotiated agreements with a number of vehicle manufacturers for the installation of airbags as options in up to one-half million passenger vehicles. The manufacturers required that the agreements include a provision freeing them from their obligation to manufacture such vehicles if the Department ever required installation of automatic restraint systems.

In 1977, then-Secretary Adams initiated another rulemaking (42 FR 15935; March 24, 1977) and issued a modified automatic restraint requirement (42 FR 34296; July 5, 1977), thereby freeing those manufacturers that had signed agreements with Secretary Coleman from their obligation to produce airbag-equipped vehicles. Secretary Adams disagreed with Secretary Coleman on the relevancy of public acceptability, although a Federal appeals court later held that public acceptability was a valid and necessary consideration under the Act (*Pacific Legal Foundation* v. *DOT*, 593 F.2d 1338, 1345–46 (D.C. Cir. 1979).) He also believed that most manufacturers would choose to use the airbag and accepted the arguments of vehicle and airbag system manufacturers about technical problems in complying. Therefore, the 1977 modified requirement provided for phased compliance—large vehicles would have to provide full automatic protection to front seat occupants beginning with MY 82, intermediate size vehicles by MY 83, and small vehicles by MY 84. The Adams requirement was submitted to Congress in accordance with the legislative mandate then in effect that any agency order establishing an automatic restraint requirement was subject to a two-House legislative veto. No veto resolution was passed.

At the time of Secretary Adams' decision in July 1977, the automatic restraint option continued to require, as it had since November 1974, that automatic belts be detachable to permit emergency release. In November 1978, however, the Department amended the Standard to allow manufacturers the option of making automatic belts either detachable or nondetachable (43 FR 52493; November 3, 1978). The Department stated that it did not believe that the alternative release mechanisms would cause serious occupant egress problems, if the manufacturers effectively instructed vehicle owners how to use those mechanisms. At the same time, the Department rejected the suggestion of some commenters that it issue requirements standardizing the new alternative mechanisms. The Department said that it was unclear which automatic belt systems would be most effective in encouraging belt use and at the same time be acceptable to the public.

In 1981, the Department examined a number of its regulations governing the automobile industry, including the automatic restraint requirement. To permit full review of the standard in order to determine whether changed circumstances warranted revision or rescission of the automatic occupant restraint requirement of FMVSS 208, the requirement's applicability to large vehicles was postponed for one year, until MY 1983 (46 FR 21172; April 9, 1981). (Among the changed circumstances to be considered was a consumer trend away from large vehicles and toward small vehicles, prompted both by their greater fuel efficiency and their generally lower costs. If, as some believed, large vehicles would soon no longer be offered by some manufacturers, it became questionable whether the manufacturers should have to incur the capital costs of compliance for these vehicles.) As part of its review, the Department also initiated a separate rulemaking to obtain public comment on whether the implementation schedule for the automatic restraint requirement should be changed and whether the requirement should be retained at all (46 FR 21205; April 9, 1981).

At the time of this latest rulemaking, it became evident that most manufacturers intended to meet the requirement by use of automatic belts; to overcome what they perceived as public opposition to continuous, non-detachable automatic restraints, the manufactures intended to provide a manual buckle on each automatic belt, which would allow the occupant to disconnect the belt. (Although once a belt was disconnected it became "active" in the sense that some action other than that needed to start the vehicle would be required to connect it, it was considered automatic because, when attached, the belt required no action by an occupant to gain its protection. At least part of the incentive to provide a means of rapid disconnect came from drivers who feared being trapped in a burning or submerged vehicle while wearing a safety belt.) At this time, given that it would be as simple to disconnect this form of automatic belt as it was to disconnect a manual belt, the Department revised sharply downward its estimate of the benefits that would result from the requirement. Since the estimate of benefits decreased drastically, the Department no longer believed that the requirement was reasonable and rescinded the rule in 1981.

Current Department of Transportation Programs

The rescission did not end the Department's efforts to promote automatic restraints. Through the Department's efforts, driver-only airbags will be installed in a number of vehicles within the next few years. At the Department's request, the General Services Adminisration (GSA) has asked for bids on 5,000 vehicles equipped with driver-only airbags for the Federal Government MY 85 fleet. The vehicles themselves will be

purchased by GSA, with the Department paying the incremental price of the airbag. Of the major domestic automobile manufacturers, only Ford has expressed interest in furnishing such vehicles. The Department hopes that others (e.g., corporate fleet owners and large rental companies) will take advantage of the opportunity to purchase these automatic restraint systems and that the numbers in use will go well beyond 5,000.

The Department also has contracted for the development of an airbag retrofit kit by which existing police vehicles will be equipped with driver-only airbags. Police will be operating approximately 500 such vehicles in Arizona, California, Maryland, Mississippi, Ohio, and Wisconsin. (The criteria used for selecting the participating police departments included the existence of a centralized vehicle maintenance program, which would facilitate airbag installation and monitoring of the airbag vehicles, and the existence of a requirement within the departments for safety belt usage.)

In addition, since 1981, the Department has conducted a campaign to increase seatbelt usage. Through a variety of means, including advertising and education, the Department is trying to encourage more people to use their seatbelts. We have attempted to involve a broad spectrum of the population and have been working with such diverse groups as service and volunteer organizations, medical and health groups, State and local governments, corporations and the media.

By initiating these projects, the Department hoped to demonstrate the value of restraint systems and also foster their availability to, and use by, the public.

Current Requirements

At present, FMVSS 208 (with the automatic restraint requirements suspended) gives manufacturers the choice of complying with one of the following three *options* for providing protection to front seat occupants in passenger cars:

1. Meet the injury protection criteria of the standard by automatic means in frontal and front angular crash tests; also, either provide automatic crash protection in a lateral and roll-over crash test or provide a manual lap belt or a combination of a manual lap belt and shoulder belt at each seating position.

2. Meet the injury protection criteria of the standard by automatic means in a frontal crash test and provide a manual lap belt or a combination of a manual lap belt and a shoulder belt for each front seating position.

3. Provide, at each front outboard designated seating position, either a manual lap belt or a combination of a manual lap belt and a shoulder belt.

Each belt system must have a belt warning system that operates a continuous or flashing light and a buzzer, for not less than 4 seconds nor more than 8 seconds, when the car is started and the driver's belt is not used.

Compliance with the injury protection criteria included in the first two options is measured by means of an instrumented test dummy. During a crash test, the force and acceleration readings taken on the head, chest and legs of the test dummy cannot exceed certain specified levels that are designed to prevent or reduce injuries.

All belts must have an emergency release mechanism that is readily accessible to an occupant. Manual belts must be equipped with a push button release. Manufacturers can use various methods to provide emergency release for automatic belts, such as a push button release or a spool release (i.e., a design that would allow the belt to unwind from the retractor to provide sufficient slack to open the door and allow the occupant to exit).

Current Occupant Restraint Technology

Manual belts

Manual belts are safety belts that will provide protection in a crash if the occupant places the belt around himself or herself and attaches it. Manual belts come in two types, lap belts that fit around the pelvic region and combined lap and shoulder belts. Manual shoulder belts are equipped with inertia reels that allow the belt webbing to play out so that the occupant can reach forward freely in the occupant compartment under normal conditions, but lock the belt in place in a crash. To remind occupants to use their belts, FMVSS 208 requires the installation of a brief audible and visible reminder.

Automatic belts

The automatic belt is similar in many respects to manual belts but differs in that it is attached at one end between the seats in a two front seat car and at the other end to the interior of the door or, in the case of a belt with a motorized anchorage, to the door frame. The belt moves out of the way when the door is opened and automatically moves into place around the occupant when the door is closed. Thus, the occupant need take no action to gain the protective benefits of the automatic belt.

Automatic belt designs differ in the number of belts used. Some designs consist of a single diagonal shoulder belt (2-point belt) with a knee bolster to prevent the occupant from sliding forward under the belt. Other designs include both a lap and a shoulder belt (3-point belt).

The designs differ also in the features and devices included to encourage belt use by motorists and at the same time allow for emergency egress if the car door cannot be opened following a crash.

One design takes advantage of the opportunity for the manufacturer to include, on a strictly voluntary basis, an ignition interlock. The belt in that design detaches from the door, but must be reattached before the car can be started the next time. This type of automatic belt (2-point belt with knee bolster) has been installed in more than 390,000 Volkswagen (VW) Rabbits over an eight-year period beginning in 1975. It was also installed on a small number of 1978–79 GM Chevettes. It is still available as an option on Rabbits.

Another design is similar in that the belt detaches, but there is not any ignition interlock. The belt may be detached and left that way without affecting the starting of the car. This was the type of automatic belt that most manufacturers had planned to use in complying with the automatic restraint requirement before the agency issued its rescission order. It was briefly offered by General Motors as a consumer option on a Cadillac model.

A third type of automatic belt is a continuous belt that does not detach at either end. Some continuous belts use a spool release, which plays out additional webbing length. Sufficient slack is created so that the motorist can lift the belt out of his or her way and exit in an emergency. Another type of continuous belt with a spool release mechanism is the motorized belt. The belt's anchorage is not fixed to the door, but runs along a track in the interior side of the door's window frame. When the door is opened, the anchorage moves forward along the track, pulling the belt out of the occupant's way. When the door is closed, the process is reversed so that the belt is placed around the seated occupant. This type of continuous belt has been installed in all Toyota Cressidas for the last several model years.

Another type of continuous belt was installed on a small number of 1980 Chevettes. The belt consisted of a single length of webbing that passed through a ring near the occupant's inboard hip and served both as a lap and shoulder belt.

The end of the lap belt that was connected to the lower rear corner of the door could be detached from the door. However, the end could not be pulled through the ring. Thus, the effect of detaching the lap belt was to create an elongated shoulder belt. The extra slack in the belt system enabled occupants to get out of their belt in the event of an emergency.

Other variations in automatic belt designs and combinations of features are possible.

Airbags

Airbags are fabric cushions that are very rapidly filled with gas to cushion the occupants against colliding with the vehicle interior when a crash occurs that is strong enough to register on a sensor device in the vehicle. When such a crash is sensed, there is rapid generation or release of gas to inflate the bag. (Generally, the bag will inflate at an impact of slightly over a barrier equivalent speed of 10 miles per hour.) The most widely known means of generating the gas is through use of sodium azide. Although the substance is toxic, it is stored in a sealed container and is converted into harmless nitrogen gas when a crash occurs. After the crash, the bag quickly deflates to permit emergency egress.

In 1972–1976, General Motors produced approximately 11,000 full-sized Chevrolets, Buicks, Oldsmobiles and Cadillacs equipped with airbags. During the same period, Ford installed airbags in 831 Mercurys. A small number were installed in Volvos also. Today, only a single manufacturer, Mercedes Benz, has any immediate plans for offering airbags in the United States. That company will be offering airbag-equipped cars in this country beginning in the 1984 model year. Mercedes Benz began selling airbag cars in late 1980. Since then, it has sold approximately 22,000 of those cars, with most sales falling within the last year or so.

Usage of Occupant Restraint Devices

General

To determine the overall benefits from a particular type of safety belt system, NHTSA has typically considered observed or reported usage by the general motoring public together with the effectiveness of that type of restraint in preventing deaths and injuries when it is used. However, 1978–80 data from the Department's National Accident Sampling System and its National Crash Severity Study suggest that the more relevant usage rate may be that reported in accidents involving death or injury. The data indicate that there is an inverse relationship between belt usage in crashes and the severity of the crash; that is, people involved in more severe accidents use their restraint systems less often than the general driving public. Since injuries are more likely to occur in the more severe crashes, the belt usage rates in those crashes may be better for predicting expected benefits. As explained more fully in the Preliminary Regulatory Impact Analysis, the Department lacks the necessary data to develop a factor that would reduce the benefits of observed belt usage in general to account for a difference between it and reported belt usage in accidents.

Manual belts

Despite the various changes to seatbelt designs to improve the convenience of belt usage (replacing separate lap and shoulder belts and buckles with an integrated lap and shoulder belt having a single buckle and adding an inertia reel to give occupants freedom of movement) and to remind occupants to use their belts (adding brief audible and visible reminders), the rate of manual belt usage has not changed substantially over the 15-year history of FMVSS 208. Even the ignition interlock, which initially produced usage rates in the range of 60 to 70 percent in cars equipped with manual belts, lost much of its ability to induce usage after a several-year period, with usage decreasing each year.

Based on observations made in 19 cities across the United States in the spring of this year, the overall safety belt usage rate for front seat occupants is slightly above 12 percent. This information also shows that usage varies significantly by seating position—13.8 percent for drivers, 8.4 percent for passengers in the right front seat, and 5 percent for passengers in the center seat. The Department expects that these figures will rise somewhat in response to its seatbelt use campaign, but cannot currently estimate the likely extent of that increase. Overall usage has increased two percent, however, since the program started.

Departmental studies have noted other interesting statistics on usage of manual belts.

- Import cars have substantially higher seatbelt usage than domestic cars (For example: Subcompact domestic usage was 12.3 percent while subcompact import usage was 22.1 percent in 1981–82.)
- Seat belt usage increases as car size decreases. (In 1981–82, usage was 16.8 percent for subcompacts, 10.5 percent for compacts, 7.4 percent for intermediates and 5.4 percent for full-size cars.)
- Newer cars have higher usage than older cars. (In 1981–82, the usage of MY 81–83 cars was 16.0 percent; the usage in MY 79–80 cars was 13.6 percent, etc.)

Automatic belts

The agency believes that the usage rates for automatic belts could vary substantially depending on the particular design used. Departmental observations made during 1980–82 of VW Rabbits equipped with detachable automatic belts coupled with ignition interlocks showed usage rates of 86 percent. A lower usage rate was indicated by data drawn from automatic belt equipped Rabbits involved in police reported accidents. Those data indicate a usage rate of 54 percent. One explanation for the differences in rates might be that those more likely to wear a safety belt are less likely to be involved in accidents. A 1978–79 General Motors study of rental Chevettes indicates that a continuous buzzer (one that will not stop until the seatbelt is buckled) doubles occupant use of seatbelts.

A second type of automatic belt is the continuous automatic belt. A 1980 Departmental telephone survey of owners of 1980 GM Chevettes equipped with a version of that system indicated a usage rate of 70 percent. This figure in all likelihood overstates the actual usage rate in those vehicles. As surveys involving the VW Rabbits have shown, usage rates determined on the basis of telephone surveys are typically higher than rates determined for the same types of cars on the basis of roadside observations. There are insufficient data to estimate the usage of the motorized continuous belts that have been installed in Toyota Cressidas.

A third type of automatic belt is the detachable automatic belt which is not coupled with an ignition interlock. Limited data on this type belt is provided in the 1978–79 General Motors study of rental Chevettes.

Airbags

Since the provision of impact protection benefits by airbags is totally independent of the question of usage, the relevant question is one of effectiveness and technological reliability. In promulgating the automatic restraint requirement in 1977, the Department made the judgment that airbag technology was already highly reliable and by the effective date of the automatic restraint requirement (September 1981) would have reached the stage where airbags would function

properly in virtually all instances. Based on available information, the Department continues to believe that they are highly reliable and would function properly.

Effectiveness of Occupant Restraint Devices

General

As used in this NPRM, "effectiveness" means the ability of a restraint system, when used, to reduce injuries or fatalities. The estimates in this section indicate the effectiveness of occupant restraints in preventing deaths and injuries by comparing the number of deaths and injuries that would occur when no restraint is used to the number that would occur if a belt or airbag were used. Thus, if 100 deaths would occur if no restraints were used and 45 would occur if a particular type of restraint were used, that restraint would be said to be 55 percent effective in reducing deaths.

The estimates on effectiveness, thus, are based on a properly buckled belt and deployed airbag. The estimates are determined independent of the differing usage rates for those types of restraints. As noted above, the usage rates are lowest for manual belts and highest for airbags, with automatic belts in between. Therefore, comparison of the benefits of those restraints requires consideration of both usage figures as well as effectiveness figures.

The effectiveness of any type of restraint depends on the conditions of the crash. No restraint can be effective if the crash is so severe that the passenger compartment is crushed or objects penetrate it. Different types of restraints may be more or less effective in frontal, side or rear collisions or in roll overs. While the effectiveness of any system can be measured separately in laboratory crash tests for any single condition, the on-the-road effectiveness of a particular restraint system depends on the frequency of the different types and severity of crashes.

Manual belts

Based on data in the 1977–79 National Crash Severity Study and rounded to the nearest 5 percent, the Department's estimates of manual lap and shoulder belt effectiveness at 50 percent for fatalities, 65 percent for moderate to critical injuries. Data from the Department's Restraint System Evaluation Project indicate that the estimated effectiveness for minor injuries is 11 5 percent.

Automatic belts

A 1981 study by the Highway Research Center at the University of North Carolina comparing the effectiveness of VW Rabbit belt systems in accidents indicated that 2-point automatic belts with a knee bolster were equally effective as manual lap and shoulder belts. However, the Department believes that the effectiveness issue for automatic belts is insettled. In June 1981, the Canadian government (Transport Canada) released a paper that included a discussion implying that automatic belts may not be as effective as manual 3-point belts.

For the 2-point automatic belt system and knee bolster, the absence of a lap belt may result in the 2-point belt being less effective in preventing ejection. Also, the door mounted belt will have little capability of restraining an occupant in the event of accidental door opening during a collision.

The Department has data on only one type of automatic belt system (a 2-point belt with a knee bolster). Based on previous submissions to the rulemaking docket on this subject, the Department expects that many manufacturers will use a 3-point automatic lap-shoulder belt design. For 3-point automatic belts, Transport Canada concluded that there is little reason to believe the effectiveness should not be essentially the same as for 3-point manual belts, except in cases where the anchorage points on the door are outside the area of the vehicle prescribed by FMVSS 210. (It should be noted that the Department has provided a waiver from FMVSS 210 if manufacturers meet the automatic protection requirements of FMVSS 208.) However, Transport Canada's testing indicated less effective control of the dummy and markedly higher chest loads with the automatic 3-point system.

Given the uncertainty regarding actual restraint usage in accidents, the Department cannot precisely estimate the effectiveness of the VW Rabbit automatic belts, compared to unrestrained occupants. The North Carolina study indicates that the VW automatic belt has about the same effectiveness as the VW manual belt—for fatalities, this effectiveness would be 50 percent. The Department's analysis of VW Rabbit occupant fatalities coupled with various estimates of automatic and manual belt usage indicates a fatality effectiveness range of 39 to 55 percent, which is basically in agreement with the North Carolina study.

Airbags

To obtain maximum protection in not only frontal, but also side and roll-over accidents, occupants must use a lap belt to supplement the airbag. In connection with the issuance of the automatic restraint requirement in 1977, the Department estimated that the airbags and lap belts were 33 percent effective in reducing moderate injuries, 45 percent in reducing severe injuries and 66 percent effective in preventing serious to fatal injuries. The comparable figures for airbags alone were 22 percent for moderate injuries, 30 percent for severe and 40 percent for fatal. Those estimates were based primarily on laboratory results and engineering judgment. Based on reassessments of previous analysis, the Department believes the previous estimates of airbag effectiveness may have been overstated. In estimating benefits for airbags, the Department has assumed that the effectiveness of the airbag plus lap belt in preventing serious to fatal injuries may fall in the range of 20 to 44 percent, has made similar modifications to the other 1977 effectiveness estimates, and has assumed that lap belt usage would be the same as currently observed seat belt usage.

Benefits of Occupant Restraint Devices

Safety

By considering the usage and effectiveness figures together, the Department can estimate the safety benefits likely to be achieved by different restraint systems. In view of the uncertainty over usage rates for some types of belt restraints and the effectiveness of airbags, the Department has developed tables showing how the amount of potential safety benefits would vary over a range of usage rates and assumed levels of effectiveness.

The severity of injuries in the tables is expressed in terms of the Abbreviated Injury Scale (AIS). The scale used is based on the following AIS definitions:

AIS injury level	
0	No injury.
1	Minor (e.g. cuts or bruises).
2	Moderate (e.g., simple fracture).
3	Serious (e.g., compound fracture or dislocated major joints).
4	Severe (e.g., amputated limbs, depressed skull fracture, survivable organ injuries).
5	Critical (e.g., major spinal cord injury, critical organ injuries).
6	Maximum, currently untreatable.

Virtually all AIS 6 injuries and over 50 percent of all AIS 5 injuries result in fatalities. (Statistically, these AIS 5 injuries are moved to AIS–6 if fatalities result.) It is, also, not unusual for an AIS

3–4 injury to result in a fatality to an elderly person or a person with special medical problems.

Table 1 shows that 13,100 lives could be saved if everyone wore their manual seatbelts; this is equivalent to 131 lives saved for every 1 percentage point increase in usage. If everyone wore automatic belts, 10,200–14,300 lives could be saved. Airbags could save 5,200 to 11,400 fatalities.

TABLE 1 27A

ANNUAL NUMBER OF FATALITIES REDUCED+ AT FULL IMPLEMENTATION
ASSUMING A MANUAL BELT WITH 50 PERCENT EFFECTIVENESS FOR DRIVER
AND FRONT RIGHT PASSENGER AND 40 PERCENT FOR FRONT MIDDLE LAP BELT

USAGE	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
10%	970	20	320	1,310
Current*	1,340	10	270	1,620
20	1,940	30	640	2,610
30	2,910	50	960	3,920
40	3,880	60	1,280	5,220
50	4,850	80	1,600	6,530
60	5,820	90	1,920	7,830
70	6,790	110	2,240	9,140
80	7,760	120	2,560	10,440
90	8,730	140	2,880	11,750
100	9,700	150	3,210	13,060

ANNUAL NUMBER OF FATALITIES REDUCED+ ASSUMING
AUTOMATIC BELT EFFECTIVENESS IS IN THE RANGE OF 39-55 PERCENT FOR DRIVER AND
FRONT RIGHT PASSENGER AND 40 PERCENT FOR FRONT MIDDLE LAP BELT

USAGE	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
Current*	1,040- 1,470	10	210- 300	1,260- 1,780
50%	3,780- 5,330	80	1,250-1,760	5,110- 7,170
100%	7,560-10,660	150	2,500-3,530	10,210-14,340

ANNUAL NUMBER OF FATALITIES REDUCED
ASSUMING VARIOUS AIR BAG EFFECTIVENESS ESTIMATES
(USAGE AT 100%)

EFFECTIVENESS**	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
1977 Analysis***	8,530	160	2,690	11,380
40%	7,760	150	2,560	10,470
30%	5,820	110	1,920	7,850
20%	3,880	80	1,280	5,240

* Current usage is 13.8% Driver, 5% Front Middle and 8.4% Front Right.

** Overall effectiveness, including lap belt usage at current usage rates.

*** Overall air bag effectiveness including lap belt usage is 44 percent driver, 41 percent front middle, and 42 percent front right.

\+ The values shown for manual or automatic belts must be considered as upper limits since they do not account for the apparent lower usage of safety belts by those involved in accidents as compared to the general population.

Table 2 shows that 235,000 AIS 1 injuries would be avoided if everyone wore their seatbelts; this is equivalent to 2,350 AIS 1 injuries avoided for every 1 percentage point increase in usage. If airbag effectiveness is 10 percent, 205,000 AIS 1 injuries could be avoided. Airbag effectiveness is low for the minor AIS 1 injuries becasue the airbag is not triggered in the low speed crashes where many of the injuries occur.

TABLE 2

ANNUAL NUMBER OF AIS 1 INJURIES REDUCED+ AT FULL IMPLEMENTATION ASSUMING A BELT RESTRAINT SYSTEM WITH 11.5% EFFECTIVENESS FOR DRIVER AND FRONT RIGHT PASSENGER AND 10 PERCENT FOR FRONT MIDDLE

USAGE	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
10%	16,650	300	6,570	23,520
Current*	22,980	150	5,520	28,650
20	33,300	600	13,130	47,030
30	49,960	900	19,700	70,560
40	66,610	1,210	26,270	94,090
50	83,260	1,510	32,830	117,600
60	99,910	1,810	39,400	141,120
70	116,560	2,110	45,970	164,640
80	133,220	2,410	52,530	188,160
90	149,870	2,710	59,100	211,680
100	166,520	3,020	65,670	235,210

ANNUAL NUMBER OF AIS 1 INJURIES REDUCED ASSUMING 1-10% AIR BAG EFFECTIVENESS

EFFECTIVENESS	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
1%	14,480	300	5,710	20,490
10%	144,800	3,020	57,100	204,920

* Current usage is 13.8% Driver, 5% Front Middle and 8.4% Front Right.

\+ The values shown for manual or automatic belts must be considered as upper limits since they do not account for the apparent lower usage of safety belts by those involved in accidents as compared to the general population.

Table 3 shows that 233,000 AIS 2–5 injuries would be reduced if everyone wore their seatbelts; this is equivalent to 2,330 AIS 2–5 injuries reduced for every 1 percentage point increase in usage. Airbags could reduce 72,000 to 180,000 AIS 2–5 injuries.

27C

TABLE 3

ANNUAL NUMBER OF AIS 2-5 INJURIES REDUCED AT FULL+ IMPLEMENTATION ASSUMING A BELT RESTRAINT SYSTEM WITH 65% EFFECTIVENESS FOR DRIVER AND FRONT RIGHT PASSENGER AND 45% EFFECTIVENESS FOR FRONT MIDDLE

USAGE	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
10%	18,570	230	4,470	23,270
Current*	25,620	120	3,750	29,490
20	37,130	460	8,940	46,530
30	55,700	690	13,410	69,800
40	74,260	920	17,880	93,060
50	92,830	1,150	22,340	116,320
60	111,390	1,380	26,810	139,580
70	129,960	1,610	31,280	162,850
80	148,520	1,840	35,750	186,110
90	167,090	2,070	40,210	209,370
100	185,650	2,300	44,690	232,640

ANNUAL NUMBER OF AIS 2-5 INJURIES REDUCED ASSUMING VARIOUS AIR BAG EFFECTIVENESS ESTIMATES (USAGE AT 100%)

EFFECTIVENESS	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
50%	142,810	2,590	34,380	179,780
40%	114,250	2,070	27,500	143,820
30%	85,690	1,550	20,630	107,870
1977 Analysis (27%)	77,120	1,340	18,560	97,020
20%	57,120	1,030	13,750	71,900

* Current usage is 13.8% Driver, 5% Front Middle and 8.4% Front Right.

\+ The values shown for manual or automatic belts must be considered as upper limits since they do not account for the apparent lower usage of safety belts by those involved in accidents as compared to the general population.

27B *Insurance*

The potential reduction in fatalities and injuries that could result from mandated automatic restraints could produce a corresponding decrease in funeral, medical, and rehabilitation expenses. The reduction in these and other expenses associated with fatalities and injuries that are traditionally covered, at least in part, by insurance policies, would decrease insurance company payouts. Since insurance premiums are generally based on loss experience, it is assumed that consumers would also benefit through lower annual insurance premiums. Generally, three types of insurance plans provide coverage for injuries suffered in automobile accidents; automobile insurance, health insurance, and life insurance. (Life insurance savings were not included in total insurance savings in the Preliminary Regulatory Impact Analysis because payments on life insurance policies will eventually be made regardless of the time of death. Savings for this type of insurance are, therefore, only equal to the present discounted value of the difference between the cost of making payments at a later date and those of making such payments earlier. An initial examination by the Department indicates that this value will not be significant enough to warrant a full analysis.)

Table 4 summarizes the potential automobile insurance premium benefits resulting from various usage rates that might occur for automatic belt systems, as well as those associated with the range of effectiveness rates expected for airbags. Over the life of each vehicle, the discounted value of insurance savings (assuming a 10 percent discount rate and a 10 year vehicle life) would range form $72 to $215 for cars equipped with airbags. These savings would be partially offset by the costs of replacing deployed airbags. Further discussion of this point is contained in the Preliminary Regulatory Impact Analysis. Spread over the entire vehicle fleet (including uninsured vehicles) the discounted value is $53 to $160. For belt systems, the savings would depend upon usage rates but could be as high as $197 per insured car ($147 when spread over all cars) if usage rose to 80 percent.

28A

TABLE 4

SUMMARY OF POTENTIAL AUTOMOBILE LIABILITY INSURANCE PREMIUM SAVINGS,**

AIR BAGS AND AUTOMATIC BELTS

(1982 $)

AUTOMATIC BELTS: USAGE RATE	PER INSURED VEHICLE ANNUAL SAVINGS	PER INSURED VEHICLE LIFE-TIME*	PER VEHICLE (INCLUDES UNINSURED) ANNUAL SAVINGS	PER VEHICLE (INCLUDES UNINSURED) LIFE-TIME*	TOTAL ANNUAL SAVINGS (M)
20	3	20	2	15	287
30	7	50	5	37	709
40	11	80	9	60	1,131
50	16	108	12	81	1,537
60	20	139	15	103	1,959
70	25	169	19	126	2,381
80	29	197	22	147	2,786
AIR BAGS:EFFECTIVENESS					
20	11	72	8	53	1,013
44	32	215	24	160	3,039

* Present discounted value over 10 year lifetime at 10% discount rate.

** The values shown for manual or automatic belts must be considered as upper limits since they do not account for the apparent lower usage of safety belts by those involved in accidents as compared to the general population.

The Department's Preliminary Regulatory Impact Analysis also estimated the potential reduction in health, government, and workers compensation under the various automatic restraint alternatives. The Analysis showed that between $135 million and $1.4 billion could be saved annually. Based on current projections, in 1995, the U.S. population should be roughly 260 million persons. Assuming that 85 percent of the people are covered by some form of health insurance (as is the case today), these reductions represent an annual savings of between $0.60 and $7.00 per insured individual. The discounted value of future health insurance savings (1982 dollars) expressed on a per vehicle basis (128 million vehicles) would be in the range of $7 to $75.

Public Acceptance

Public attitude toward belt usage

In response to the low rate of manual belt usage, numerous studies have been conducted to determine why people do or do not wear their belts. For example, according to a 1978 study by Tekenekron, Inc., 68 percent of the respondents who use their belts less than half the time explained their nonuse on the grounds that belt use was bothersome or inconvenient or that they simply forget to use belts. In addition, 14 percent of the group said that belts were uncomfortable. A 1977 study funded by General Motors found the following factors to have a significant effect on belt usage: overall feelings about the necessity of using belts; requests by drivers for their passengers to use belts; comfort and convenience of belt use; belt design complexity; car size; events such as adverse weather conditions; and demographic characteristics.

On the whole, available evidence indicates that there is considerable opposition in the United States to efforts through the force of law or technological means to compel the use of safety belts. Although the ignition interlocks on MY 74–75 cars were producing very substantial increases in safety belt usage at the time, the reaction of some members of the public induced Congress to enact legislation against those devices.

The letters to the agency during this period (which are contained in the public rulemaking docket on this subject) and the legislative history of that legislation indicate that the antipathy of these persons went beyond the particular technological means being used to compel motorists to use their safety belts. A basic philosophical objection was made to any direct or indirect governmental effort to reduce or remove freedom of choice regarding belt usage.

Further indication that the lack of full public acceptance of compelled belt usage extends beyond the ignition interlock is provided by the absence of State mandatory safety belt usage laws. Belt usage laws have been enacted by approximately 26 foreign countries, including most Western European nations, and by four Canadian provinces. However, in the 10 years since the Department's National Highway Traffic Safety Administration held a National Safety Belt Usage Conference and Congress enacted a program for making incentive payments to States enacting such laws (23 U.S.C. 402(j)), not a single State has done so. The only U.S. jurisdiction with such a

law are Puerto Rico and Brooklyn County in Ohio, and they adopted their laws in the 1970's. Congress quickly repudiated the incentive concept in the face of the rising public sentiment against the ignition interlock. After providing funds for the first year of the program's operation, Congress declined thereafter to appropriate any additional funds.

The idea of safety belt use laws is, however, still alive. Bills were introduced in approximately 15 State legislatures last year, although none were enacted. However, public opinion polls taken in several States indicate that a majority of the public (Michigan: 67 percent, New York: 56 percent, and Delaware: 69 percent) favor safety belt usage laws.

Further, most of the States have been willing in recent years to adopt mandatory usage laws for young children. Since 1977, 40 States have passed legislation requiring the use of child restraints.

It may be argued that the purchase to date of more than 390,000 cars equipped with automatic belts could be interpreted as indicating the receptivity of the public to that form of technologically compelled belt usage. The Department is very hesitant to draw any conclusions from these purchases about the attitude of the general public. We recognize that a significant portion of the purchasers of these cars state that they did not expressly request that their cars be equipped with automatic belts and did not know that such belts would come with their cars. However, based on the experience of the interlock, we believe that for many members of the public there could be a major difference between the purchase of an automatic belt-equipped car at a time when most cars do not have such belts and the purchase of such a car at a time when most cars had automatic belts as a result of a requirement by the Federal government for automatic restraints. By comparison, the former purchase of an automatic belt-equipped car is voluntary while the latter would be involuntary. A person who did not like automatic belts would have no one to blame except himself in making the former purchase. However, if such a person made the latter purchase, he might well be hostile toward the automatic belts and might disconnect and, even worse, remove them since their presence in his car would be the result of a governmental mandate and would represent to him governmental interference in his choice of whether to use safety belts. We would like to receive public comment on this issue.

Safety benefits and convenience versus cost and other factors

Ultimately, the acceptability of particular occupant restraint systems will depend on the public's perception of their safety benefits and convenience as compared to offsetting factors such as costs and possible safety hazards. Public reaction becomes particularly important if the public fails to appreciate the safety benefits of a particular restraint system and overestimates the negative factors, to the extent that it is led to oppose and cause the rejection of that system, as in the case of the interlock/manual belt system.

Cost of Occupant Restraint Devices

General

The cost figures in this section are given in 1982 dollars and based on a production volume of one million units per year. That level was selected primarily because the Department believes it is reasonable to expect that it will be achieved for each type of restraint under one or more of the alternatives and because price is not very sensitive to volume above that level.

Manual lap and shoulder belt

Based on the Departmental analyses, the increase in a new car's price attributable to the addition of a manual lap and shoulder belt to the front outboard seating positions and a manual lap belt to the front center position is approximately $50. Industry estimates are $70. The added weight of the material installed to provide secure anchorage for the manual belt would increase fuel usage at a cost of $22 over the life of the car.

Automatic belt

For the various designs of automatic belts having a fixed anchorage on the door instead of a motorized anchorage, the increase in a new car purchase price over that for a car with manual seatbelts has been tentatively estimated at $80. Industry estimates are $90. The Department lacks sufficient information to make its own estimate for the cost of motorized automatic belts. According to industry, the consumer costs for these motorized belts are $180 more than for manual belts. The added weight of the material installed to provide secure anchorage for non-motorized automatic belts would increase fuel usage at a cost of $18 above that for a car with manual seatbelts, over the life of the car. The Department does not have a weight estimate for motorized belts.

Airbag

The Department estimates that the vehicle price increase resulting from the installation of airbags in all front seating positions of cars would be $320 over the cost of a car with manual seatbelts. The price of airbags is sensitive to volume changes. (For estimates of the consumer costs of airbags at different production levels, see Table V-4 of the Preliminary Regulatory Impact Analysis.) The Department lacks detailed, current industry estimates for a production volume of one million units. Estimates provided by Ford and General Motors in 1981 for lower production volumes (Ford: 200,000; GM: 400,000) are several times higher (Ford: $875; GM: $690–740) than the figures that the Department would estimate for those volumes. The difference between our estimates and industry's estimates is basically due to differences in design and pricing assumptions; this is more fully explained in the Preliminary Regulatory Impact Analysis. There would also be a fuel penalty of $38, above that for a car with manual seatbelts, for each car equipped with airbags, over the life of the car.

II. Timetable

In the September 1, 1983, suspension notice, we stated that we intend to expedite this rulemaking and reach a final decision as quickly as possible, well before the end of the one-year suspension. Because we recognize the importance of moving expeditiously on this matter, we are establishing a timetable for completion of Departmental action to be taken to comply with the decision of the Supreme Court. The timetable is as follows: After allowing 60 days for public comment on this NPRM and holding the public meetings scheduled between November 28 and December 6, we will take no more than 120 days to analyze and respond to that public comment and prepare a final decision on this matter. In addition, during this time, we will also obtain the necessary review by the Office of Management and Budget under E.O. 12291. We anticipate publishing the final decision document on or before April 12, 1984. It is possible that, as a result of public comment, we may narrow the alternatives to one or more that were not clearly set forth in this NPRM. In that event, we would be unable to issue a final rule under the Administrative Procedure Act unless we first provided the public with an opportunity to comment on such alternatives. In that case, we would issue a supplemental notice of proposed

rulemaking (SNPRM) on or before April 12, 1984, in lieu of the final decision document. Thirty days would be allowed for public comment on the SNPRM and another 60 days to develop the final decision document. The final decision would, therefore, be published by July 11, 1984.

In establishing a schedule, it must be recognized that some circumstances are outside our control. We can, for example, only estimate the number of public comments and the substance and detail we expect those comments to provide. If the public comments are more extensive or complex than we expect, it will take longer to analyze and respond to them. Therefore, if it is necessary to go beyond any scheduled date set forth in this document, we will publish a notice in the **Federal Register** providing a new expected publication date.

III. Proposals

General

This notice is being issued to aid the Department in its strong commitment to carry out its vital mission of improving motor vehicle safety. No part of that mission is more important and can provide more benefits than protecting automobile passengers against injury when they are involved in a crash. Through this rulemaking, the Department is exploring various ways for providing reasonable and effective protection for these people.

The lengthy history of this rulemaking presents conflicting problems for the Department. On the one hand, we recognize that, in light of the amount of time that has elapsed since the Department initially proposed automatic restraints to reduce the number of passenger car occupant fatalities, we cannot permit our response to the Supreme Court decision to be unduly delayed. At the same time, we recognize that one of the reasons that such an extensive amount of time has been spent on this rulemaking is the controversy that it has generated. While we understand that concensus would be impossible, we do recognize that public acceptability is a very important ingredient of any rule. Experience has also clearly taught us that for any rule to be successful, the compliance method must be effective. In this regard, we are concerned about any changes in the state of the art as well as any new data being gathered on the effectiveness and efficiency of alternative devices.

In the section that follows, we have set forth proposals for Departmental action in accordance with the Supreme Court's decision. In discussing these proposals, we ask a number of questions or make a number of requests for data to help us obtain the kind of information we believe will facilitate our analysis. For easy reference, we have numbered the questions or requests consecutively throughout the document. We would like to stress, however, that we do not wish to limit public comment to these proposals or the questions and requests that we ask. We would also like to receive any other information that will aid our decisionmaking and would like to solicit any other suggestions or alternatives for complying with the Department's statutory responsibilities and the Supreme Court decision.

In providing a comment on a particular matter or in responding to a particular question, please provide any relevant factual information to support your conclusions or opinions, including but not limited to statistical and cost data, and the source of such information. (In this regard, it is noteworthy that the Supreme Court stated that "[t]he agency is correct to look at the costs as well as the benefits of Standard 208." *State Farm* at 2873.)

Range of Proposals and Fundamental Issues.

There are three regulatory actions that the Department can take in response to the Supreme Court decision. They are as follows:

1. *Amend the automatic occupant restraint requirements of FMVSS 208:* We could amend FMVSS 208; that is, we could decide, for example, to permit compliance only with either airbags or nondetachable seatbelts.

2. *Retain the automatic occupant restraint requirements of FMVSS 208:* We could adhere to FMVSS 208; that is, we could retain the substantive requirement for an automatic occupant restraint and establish a compliance date.

3. *Rescind the automatic occupant restraint requirements of FMVSS 208:* We could rescind the existing automatic occupant restraint requirements of FMVSS 208, after we, as the Supreme Court said, "consider the matter further" and provide additional justification.

Other steps are possible in conjunction with, or as a supplement to, one or more of the basic alternative proposals. We propose three in the NPRM. They are:

1. *Conduct a demonstration program:* As a preliminary step to action on one of the regulatory alternatives, we could conduct a demonstration program to help us gather more detailed and definitive data on public acceptability.

2. *Seek mandatory state safety belt usage laws:* We could seek legislation that would establish requirements to provide incentives for the States to adopt and enforce safety belt usage laws.

3. *Seek legislation mandating consumer option:* We could seek legislation requiring manufacturers to provide consumers with an option of selecting airbags or automatic belts, if they prefer these over manual belts.

During the course of the rulemaking on automatic occupant restraints, three fundamental issues have been raised that are interwined with the altternative proposals set forth above. These three issues are:

1. *Compliance alternatives:* This issue essentially involves the question of whether we can make the rule more flexible and reasonable.

2. *Public acceptance:* This issue involves the willingness of the public to accept a standard; acceptability is a necessity for any standard to be fully effective.

3. *Cost and technology information:* This issue involves cost and technical matters related to the various proposals.

Amend the Automatic Occupant Restraint Requirements of FMVSS 208

As one alternative, the Court indicated that the Department could amend FMVSS 208 if such a change is warranted; that is, we are not restricted to retaining the existing rule, as written, if we decide not to rescind it.

The following excerpts from the Court's decision are important to a discussion of this alternative:

- "Given the effectiveness ascribed to airbag technology by the agency, the mandate of the Safety Act to achieve traffic safety would suggest that the logical response to the faults of detachable seatbelts would be to require the installation of airbags." *State Farm* at 2869.
- ". . . NHTSA did not suggest that the emergency release mechanisms used in nondetachable belts are any less effective for emergency egress that the buckle release system used in detachable belts. In 1978, when General Motors obtained the agency's approval to install a continuous passive belt, it assured the agency that nondetachable belts with spool releases were as safe as detachable belts with buckle releases." *State Farm* at 2873.
- "The agency also failed to offer any explanation why a continuous passive belt would engender the same adverse public reaction as the ignition interlock, and, as the Court of Appeals concluded, 'every indication on the record points the other way.'" *State Farm* at 2873.

As a potential amendment to the existing 208 Standard, the Department could consider one of four major sub-alternative proposals; the first three are set forth below:

1. a requirement for automatic occupant restraints that could be satisfied only by installing either an airbag or a nondetachable, continuous belt in the automobile; (installation of a *detachable* automatic belt with an ignition interlock, such as the one in the VW Rabbit, would be prohibited.); three variations are proposed:

a. A requirement for automatic occupant restraints for the driver position only; manual or automatic restraints could be permitted for the other front seat positions;

b. A requirement for automatic occupant restraints for the outboard seat positions; manual or automatic restraints could be permitted for the middle seat positions; or

c. A requirement for automatic occupant restraints for all front seat positions; or

2. A requirement for airbags in all automobiles; three variations are proposed:

a. A requirement for airbags for the driver position only; manual or automatic restraints could be premitted for the other front seat positions.

b. A requirement for airbags for the outboard seat positions; manual or automatic restraints could be permitted for the middle seat position; or

c. A requirement for airbags for all front seat positions.

3. A requirement for automatic occupant restraints in all automobiles; two variations are proposed:

a. A requirement for automatic occupant restraints for the driver position only; manual or automatic restraints could be permitted for the other front seat positions; or

b. A requirement for automatic occupant restraints for the outboard seat positions; manual or automatic restraints could be permitted for the middle seat position.

Note that for sub-alternative 3, the third variation (paragraph c) for the first two sub-alternatives would be the same as retraining the rule that had been rescinded.

With respect to this proposal, the Department requests responses to the following:

1. Are the emergency release mechanisms used in continuous, nondetachable belts any less effective for emergency egress than the buckle system used in detachable belts?

2. Are other emergency release mechanisms for use with continuous, nondetachable belts available now or expected to be available in the near future? If so, please indicate when and provide other relevant data describing each mechanism and its cost.

3. Are there possible modifications to a detachable belt that would overcome the concerns about the potential lack of usage? Are there possible modifications to the nondetachable belts that would make them more acceptable and increase their use? Please provide a description of any such modifications, including an estimate of the time when they would be available and their costs.

4. Should the Department issue a regulation mandating the installation of airbags in all automobiles? For all front seat positions? For the driver and right front seat position? For the driver only?

5. Which automatic restraint system would achieve the highest overall protection rate in frontal and side impacts and roll-overs of any occupant restraint requirement that the agency could establish?

6. Would airbags avoid the types of concerns that many motorists have about safety belts: entrapment and comfort and convenience? Would it avoid a problem of continuous automatic belts: the concern, which some persons may have, that it gives motorists too little choice about whether to wear safety belts? Would it lessen concerns about having the government attempt to determine for the individual whether he or she should buy or use automatic restraints? (Unlike the automatic belt, the airbag does not touch or even come near a motorist except in the event of a crash.)

7. If the Department issued a rule that could be complied with only through the use of airbags or nondetachable belts, which would be used by the auto industry to comply and in what numbers or percentages? It would be helpful if, in supplying this information, further detail could be given (e.g., in what types of cars might particular devices be used). Please also provide an explanation as to the choice of restraint for particular models or car sizes.

8. What effect would the inability of a motorist to detach the continuous automatic belt at either end have a belt use and therefore on safety in the short run? In the long run? What would the magnitude of the effect be? Would the effect vary by car size? Is it appropriate to use the data on increases in usage brought about by the interlock/automatic belt system to estimate nondetachable automatic belt usage?

9. Studies indicate that twenty to forty percent of all motorists are—due to their personal philosophy about safety usage, fear of entrapment or other reasons—hard core nonusers of safety belts. (This range was based on comments to the docket and various studies; e.g., "1979 Survey of Public Perceptions on Highway Safety," Teknekron Research, Inc., and "Public Attitudes toward Passive Restraint Systems," 1978, Peter D. Hart Research Associates.) Are they likely to react adversely to a belt system that attempts to force them to wear a belt? Would many of these people attempt to find ways of defeating the nondetachable automatic belt? Since the belt cannot be disconnected, would users be likely to cut it out? What percentage of cars would lack any front seat occupant restraint systems as a result in the short run? In the long run?

10. Would a continuous, nondetachable belt engender the same kind of adverse public reaction as the ignition interlock? If so, why? Was the public antipathy in 1974 toward the ignition interlock directed more toward the interference with the starting of the car or toward being compelled to use a safety belt? Please provide an explanation or support for the answer given.

11. What is the likely long run usage rate of nondetachable belts in the event that virtually all new cars are equipped with those belts? What is the likely long run usage rate of detachable belts without ignition interlocks in the event that virtually all new cars are equipped with those belts? Would manufacturers voluntarily add ignition interlocks to detachable automatic belts? What effect would such an addition have on usage rates and public acceptance?

12. If, according to the 1978–79 General Motors Chevette Study, seatbelt usage is doubled by the use of a continuous buzzer, what percent of the increase consists of users who needed the extra "reminder" (in addition to the currently required four to eight second buzzer)? What percent of the increase resulted from those who put the belts on simply to stop the buzzer? In other words, what effect would a continuous buzzer have if it could be shut off by connecting the seatbelt or pushing a button? Are there any warning systems that would accomplish the same result as a continuous buzzer and still satisfy the statutory prohibition against a "continuous buzzer"?

13. The Department's estimate of the total cost for the current manual belts is about $20 lower than the industry estimate. The agency seeks auto manufacturer or supplier comment on the current cost of manual belt systems.

14. The cost of automatic belt systems appears to be much higher than the cost of manual belts of similar design.

Although there are additional components that would be expected to raise the consumer cost, detailed data are unavailable to verify the difference in the cost of the two systems. The agency is seeking comments on the cost of current designs of automatic belt systems. Of particular interest is the consumer cost of nondetachable belt systems, for which the agency has no current cost data.

15. On what future date should an amended rule be made effective? In providing information to support a particular date, please keep in mind the availability of the necessary parts as well as the leadtime necessary for the manufacturers to make the adjustments or modifications required for the installation of those parts.

16. Should the rule be phased in as earlier planned (i.e., large cars first, then intermediate, then small) or in some other manner? In responding to this question, please particularly take into account the changes in the makeup of the automobile fleet that have occurred since the initial phase-in approach was mandated.

17. What insurance savings would result from a requirement permitting only airbags for the entire front seat? For the outboard seats only? For the driver only? Airbags and nondetachable belts for the entire front seat? For the outboard seats only? For the driver only? Automatic occupant restraints for outboard seats only? For the driver only? Any other automatic system? What savings would be passed on to the insured? If none, please explain why not. How would the answer to these questions be affected by the particular restraint systems used and the numbers of cars in which they are used?

18. What insurance premium discounts, if any, are currently being offered to insureds who purchase automatic occupant restraint systems? What is the basis for determining the amount of the discount? Does the discount vary depending on the type of restraint and, if so, how? If no discounts are offered, please explain why not.

A fourth sub-alternative for amending the automatic restraint requirements of FMVSS 208 would be to require that the steering columns and/or dashboards of all new cars be designed so that they could accommodate an airbag. In order to adopte an amendment of this nature, the Department would have to respond to the concerns raise by the Supreme Court about the benefits of requiring airbags and automatic belts.

This approach could make airbags widely available to consumers as an option from manufacturers through their dealers and perhaps from after-market vendors as well. Currently, airbags are only available on Mercedes-Benz cars. We would appreciate responses to the following questions on this alternative:

19. What issues of compatibility between vehicle and airbag components would there be and how could they be resolved?

20. How would designing the car to permit retrofit capability affect the cost of the car?

21. How much would it cost to have an airbag installed by a dealer or in the after-market if approximately one million were purchased annually? Please indicate the price sensitivity of higher and lower volumes of sales.

22. How many consumers would voluntarily have their cars retrofitted with airbags?

23. How would the effectiveness of manufacturer-installed airbags compare with that of dealer—or after-market—installed airbags?

24. What method or methods should be used in compliance testing to ensure performance of components and vehicles?

Retain the Automatic Occupant Restraint Requirements of FMVSS 208

Under this alternative, the Department would retain FMVSS 208 as it existed prior to the 1981 rescission. As the Supreme Court noted, FMVSS 208 was upheld by the United States Court of Appeals for the District of Columbia Circuit in 1979 and survived the scrutiny of Congress, which did not exercise its legislative veto authority.

With respect to this proposal, we would appreciate responses to the following:

25. Are there systems, devices or modifications other than those described in this NPRM, that are available now or expected to be available in the near future and that would comply with the automatic occupant restraint requirement? Please provide a description of such systems, devices, or modifications, including an estimate of the time when they would be available and their costs.

26. If the Department required an automatic occupant restraint system that could be complied with through the use of airbags, detachable belts, or nondetachable belts, which would be used by the automobile industry, and in what numbers or percentages, to comply with the regulation? It would be helpful if, in supplying this information, further detail could be given (e.g., in what types of cars particular devices might be used). Please also provide an explanation as to the choice of restraint for particular models or car sizes.

27. Please provide any new data on the usage, effectiveness, or acceptability of the various automatic occupant restraints. Should the Department impose only a "temporary" final rule (i.e., a final rule effective for only a limited number of model years) that would be subject to subsequent evaluation of the systems used to comply with the regulation, in order to determine whether any modifications to the rule would be necessary at a later date? How long a period would be necessary for the "temporary" rule and then for the evaluation?

28. If the manufacturers were to comply with FMVSS 208 through the use of only one method, the Department would not be able to gather data on the use and effectiveness of other alternatives. In this regard, how could the Department obtain adequate data on the various alternatives for subsequent evaluation? Are there other ways to encourage the use of different means of compliance?

29. What other means are available for determining the use and effectiveness of the various systems capable of meeting an automatic occupant restraint requirement?

30. Are there problems with the junking and scrapping of cars with undeployed airbags? If so, what are the potential solutions to the problems?

31. What insurance savings would result from retaining the automatic restraint requirements of FMVSS 208? What savings would be passed on to the insured? How would the answer to this question be affected by the particular restraint systems used and the numbers of cars in which they are used?

32. On what date could the rule be made effective? In providing information to support a particular date, please keep in mind the availability of the necessary parts as well as the lead time necessary for the manufacturers to make the adjustments or modifications required for the installation of those parts.

33. Should the rule be phased in?

Rescind the Automatic Restraint Requirements of FMVSS 208

Under this alternative, the Department would rescind the automatic occupant restraint requirements of FMVSS 208. The Supreme Court, throughout its decision, indicated that it was not foreclosing the Department from rescinding the requirement, if it could justify its action. In particular, the Court held that the "agency must cogently explain why it has exercised its discretion in a given manner", *State Farm* at 2869, where inadequate. Thus, to rescind the requirement for an

automatic occupant restraint system, the Department would have to "cogently explain" its decision, addressing the Court's concerns with the 1981 rescission, as reflected in the following excerpts's:

• "At the very least this alternative way [the installation of airbags] of achieving the objectives of the Act should have been addressed and adequate reasons given for its abandonment." *State Farm* at 2869.

• "[G]iven the judgment made in 1977 that airbags are an effective and cost-beneficial life-saving technology, the mandatory passive-restraint rule may not be abandoned without any consideration whatsoever of airbags-only requirement." *State Farm* at 2871.

• "Rescission of the passive restraint requirement would not be arbitrary and capricious simply because there was no evidence in direct support of the agency's conclusion. It is not infrequent that the available data does not settle a regulatory issue and the agency must then exercise its judgment in moving from the facts and probabilities on the record to a policy conclusion. Recognizing that policymaking in a complex society must account for uncertainty, however, does not imply that it is sufficient for an agency to merely recite the terms 'substantial uncertainty as a justification for its actions. The agency must explain the evidence which is available, and must offer a 'rational connection between the facts found and the choice made' . . . [Citations omitted] Generally, one aspect of that explanation would be a justification for rescinding the regulation before engaging in a search for further evidence." *State Farm* at 2871.

• "Since 20 to 50% of motorists currently wear seatbelts on some occasions, there would seem to be grounds to believe that seatbelts used by occasional users will be substantially increased by the detachable passive belts. Whether this is in fact the case is a matter for the agency to decide, but it must bring its expertise to bear on the question." *State Farm* at 2872.

• "When the agency reexamines its findings as to the likely increase in seatbelt usage, it must also reconsider its judgment of the reasonableness of the monetary and other costs associated with the Standard. In reaching its judgment, NHTSA sould bear in mind that Congress intended safety to be the preeminent factor under the Motor Vehicle Safety Act." *State Farm* at 2873.

• "The agency also failed to articulate a basis for not requiring nondetachable belts under Standard 208." *State Farm* at 2873.

• "While the agency is entitled to change its views on the acceptability of continuous passive belts, it is obligated to explain its reasons for doing so." *State Farm* at 2873.

• "The agency also failed to offer any explanation why a continuous passive belt would engender the same adverse public reaction as the ignition interlock, and, as the Court of Appeals concluded, 'every indication in the record points the other way.' " *State Farm* at 2873.

With respect to this proposal and the concerns the Court raises, we would apprecaite receiving information or comments on the following:

34. Are airbags an effective and cost-beneficial, life-saving technology? If so, what, if any, improvements have been made over the past five to six years? Can airbags be installed in all cars?

35. Would there be an increase in the use of seatbelts by occasional users if detachable automatic belts were used to comply with FMVSS 208? How much of an increase could be expected? What would be the overall usage level of detachable belts? Would these vary by car size?

36. What manufacturer savings could result from rescinding the automatic restraint requirements of FMVSS 208? Please break these manufacturer costs into appropriate categories (e.g., capital investment, variable costs) and indicate whether figures are on an annual basis or other timeframe. How much of these manufacturere cost savings will be passed on to the consumer?

37. What effect would rescission have on insurance rates? What effect does each one percent increase in seat belt usage—through whatever means—have on insurance company savings and to what extent are these savings passed on to the insured?

38. Please provide any other date on the reasonableness of the monetary and other costs associated with the automatic occupant restraint requirements of FMVSS 208.

Conduct a Demonstration Program

Demonstration Program

Under this proposal, the Department would conduct a demonstration program to gather additional data on which to base a decision. This would not be a final action, in itself. However, if this proposal were adopted, the Department would have to suspend the automatic restraint requirements of FMVSS 208 for a period of time sufficient to conduct the demonstration. In this regard, it should be noted that, in responding to an assertion by the Department that it was reasonable to rescind the automatic restraint requirements of FMVSS 208 to avoid forcing manufacturers to have to comply with an ineffective safety initiative, the Supreme Court said that "it would have been permissible for the agency to temporarily suspend the passive restraint requirement or to delay its implementation date while an airbags mandate was studied." *State Farm* at 2870, f.n. 15; also see 2874, f.n. 21.

Public acceptance is important to the success of Federal efforts to increase automotive safety. Temporary gains are possible with unpopular and restrictive safety regulations, but experience with the ignition interlock requirement and motorcycle helmet laws has shown that safety regulations that generate sufficient opposition are frequently overturned. (Many states repealed their helmet use laws after Congress amended the Highway Safety Act to provide that the states could not be required to have such laws.) Unfortunately, the public perception of the safety program also can become more negative. A consideration of reasonableness requires, among other things, examination of the public acceptability of a proposal. (The D.C. Court of Appeals, in the *Pacific Legal Foundation* case cited earlier, said that public acceptability is a valid and necessary consideration under the Act.)

A method for obtaining detailed data on the issue of public acceptability would be to conduct a demonstration program. As explained in the Department's Preliminary Regulatory Impact Analysis, to obtain statistically reliable data within a reasonably short period of time, a large number of automobiles would have to be included in the program. If such a program were to be conducted; the Department believes that it should include provision for producing at least one million cars per year over a two year period with airbags, detachable automatic belts without ignition interlocks, and continuous automatic belts. The three types of automatic restraints would be divided evenly the cars produced. This should provide statistically reliable results in about four years from the date the first car is sold. In addition, the program could include cars retrofitted with after-market airbags. (If the program is limited to airbags, 500,000 cars should be manufactured per year over a two year period. This would provide results in about 2½ to 3¼ years.) The program could be conducted in essentially the same fashion as envisioned by Secretary Coleman when he announced his plans in 1976 to conduct a demonstration program. At that time, the Department negotiated

contracts with four car manufacturers for the production of up to 250,000 automatic restraint equipped cars per year for model years 1980 and 1981.

A demonstration program would serve a multiplicity of purposes. It would provide information on the relative attractiveness of the various types of automatic restraints to new car purchasers. It would enable the agency to obtain data on the relative usage rates of the differenct designs of automatic belts. The data regarding the accident experience of the cars involved in the program could be used to acquaint the public with the level of effectiveness and reliability of the devices.

One major obstacle to a demonstration program is manufacturer participation: would the manufacturers be willing to participate and, if so, would they participate in the manner deemed necessary to accomplish the program's objectives.

Another major problem with a demonstration program would be the length of time between the conclusion of agreements with manufacturers regarding the program and the collection of sufficient usage data and accident data to enable the agency to reach reliable conclusions. Sufficient time would have to be allowed for the designing, tooling, and producing of automatic restraint equipped cars and for the occurrence of a sufficient number of accidents to generate the necessary data. From beginning to end, these events would likely consume approximately six years. The duration would ultimately depend upon the rate of sales of cars equipped with automatic restraints. Further rulemaking would then be necessary to implement a regulation, if appropriate, followed by a period of time to allow manufacturers to prepare for compliance.

A major issue with respect to this proposal, then, would appear to be whether the amount of time that would be necessary would comport with the Court's concept of "temporarily suspend." *State Farm* at 2870, f.n. 15; also see 2874, f.n. 21.

With respect to this proposal, we would appreciate responses to the following:

39. Would such a demonstration program be appropriate at this time?

40. Should the program be limited to airbags? Airbags and non-detachable belts? All forms of automatic restraints? Should the program include manual belts with continuous buzzers that could be turned off by attaching the belt or pushing a button? What other devices should be included in the program?

41. For each of the possibilities described in the previous question, what would be an adequate data base for such a program, over how long a period of time should it be conducted, and how much would it cost?

42. Would the automobile manufacturers be willing to participate in such a demonstration program? What conditions would be necessary for the manufacturers' participation (e.g., number of cars, number of automobiles, costs, methods of advertising)?

43. Are there others who would be willing to participate in such a demonstration program by ordering automatic occupant restraint systems for large fleets of automobiles (as is being done with the GSA fleet)? In this regard, however, are there problems with the limited use of such fleets in terms of the number of people who would be involved, the kinds of people who would use the automobiles, and the purposes or types of use of the automobile that would not allow an appropriate extrapolation to the general population?

44. What volume of annual sales of automatic restraint equipped cars could reasonably be expected? What percentage of purchasers would be people who currently use their manual belts and how would this affect the data gathered? What steps can be taken to encourage sales?

45. How should the costs of a demonstration program be paid?

Seek Mandatory State Safety Belt Usage Laws

Under this proposal, the automatic restraint requirements of FMVSS 208 would be rescinded (or suspended while the Department sought the necessary legislation) and the manufacturers would retain the option of installing manual or automatic restraints. In addition, the Department would seek legislation amending the Highway Safety Act to establish a requirement for, or provide incentives for the States to adopt and enforce, safety belt usage laws.

This alternative has the potential for being a fast acting and cost-effective alternative. The primary advantages of this alternative are that it does not require additional expenditures for new types of occupant restraints but it would require increased enforcement costs. Another advantage is that it could be quickly applied to all cars on the road if it were enacted and enforced in all the States. Implementation of an automatic restraint requirement would affect only the approximately 10 percent of the car fleet that is replaced each year with newly-manufactured automobiles; thus, full benefits would be achieved only at the end of a 10-year period. If a 70 percent usage rate could be achieved in all States under mandatory safety belt usage laws (and if installing continuous, nondetachable automatic belts resulted in the same usage rate), the annual safety benefits in the first year of implementation of the mandatory usage laws would be essentially the same as those that could be obtained in the tenth year by installing automatic belts in new cars.

A number of analyses of seat belt use in countries that impose mandatory laws show that laws do increase usage. A study published by the American Seat Belt Council, titled "International Seat Belt and Child Restraint Use Laws" surveyed road safety officials in many of the 29 countries and provinces to have mandatory seat belt laws or ordinaces. The survey results, based on responses from officials in 21 countries, showed that when seat belt usage was required and properly enforced, it had increased dramatically and remained high. Seat belt usage generally increased from pre-law usage rates of 20–40 percent to post-law usage rates of 70–90 percent.

A March 1980 National Academy of Sciences study for the Department also supports the opinion that almost all countries with comprehensive, mandatory safety-belt-use laws experience substantial increases in rates of restraint use. Success is dependent, however, on how well the public was prepared for these laws and on the diligence of enforcement. The Insurance Institute for Highway Safety released a study in June of 1979 showing that safety belt use laws have had "some limited success in reducing occupant fatalities." According to the Institute, the reason for this is that the occupants most likely to be in serious crashes are the least likely to respond to laws. The study further noted that involuntary belt users tend to comply with use laws by wearing their belts incorrectly.

This proposal raises important questions upon which we specifically request public comment.

46. What is the political feasibility of combined Federal and State action to secure the enactment of safety belt usage laws?

47. What can we learn from the experience of countries with such mandatory laws and can the experience in these countries be applied to the United States?

48. What are the likely usage rates under such State laws?

49. What are the enforcement costs associated with such laws?

50. What effect would mandatory safety belt laws have on personal injury

suits by non-users of safety belts? What effect on insurance rates?

Seek Legislation Mandating Consumer Option

Under this proposal, we would seek legislation requiring automobile manufacturers to provide consumers with the option of selecting automatic restraints—airbags or automatic belts—on some of their models. At least one model in each vehicle size class would be required to have this option to ensure the availability of automatic restraint cars to purchasers regardless of the size class in which they desired to purchase a new car. Currently, airbags are available on Mercedes-Benz automobiles only and automatic belts on a few subcompacts. This alternative would accommodate the desires of some consumers who wished to purchase automatic restraints while allowing all consumers the freedom of selecting either automatic or manual belts. This proposal also raises a number of questions on which we seek public comment.

51. Should the option include airbag and automatic seatbelts? What other devices (e.g., audible or visible reminders) should be required options?

52. What would a reasonable price for automatic restraints be? How can a reasonable price be ensured?

53. Should the option only be limited to major manufacturers?

54. Would most purchasers tend to select the cheapest restraint system?

55. Would dealers tend to order any particular type of restraint (e.g., the cheapest one)?

56. For the different alternatives suggested in response to the preceding questions, what percentage of automobiles would be equipped with automatic restraints? Which type of automatic restraint?

57. Since automatic restraints would be more expensive and installed in a minority of cars, their per unit costs would be much higher than if installation of automatic restraints in all cars were mandate. How much higher would the costs be? To what extent would this discourage the purchase of automatic restraints? Would purchasers of automatic occupant restraints receive reductions in insurance premiums and would those reductions be sufficient to offset the extra costs of the automatic restraints?

58. How aggressively have automatic restraint options been marketed by the manufacturers offering them? How would more aggressive marketing affect sales and per unit prices? How can aggressive marketing be ensured?

Compliance Alternatives

During the course of the rulemaking on this subject a variety of compliance issues and concerns have been raised. They include specific issues, such as whether manufacturers should be required to install a new restraint system in an automobile model that will only be manufactured for another year or two. Some concerns are more general, such as whether it is possible to achieve the introduction of various forms of passive restraints so that their effectiveness can be compared and, if so, how that can be achieved. In responding to the following inquiries, please indicate how your suggestions comport with the Department's statutory authority:

59. Should we, and can we, draft the rule in such a way as to encourage the use of specific means of compliance? For example, should we permit the exclusion of certain soon to be discontinued automobile models if the manufacturer will install airbags in a specified percentage of its fleet for a certain number of years? If so, what should we encourage and how should we do it?

60. Should we, and could we, grant other types of waivers or exemptions in exchange for other innovative steps by the manufacturers? If so, what?

Public Acceptance

The issue of public acceptability affects each of the alternative proposals discussed in this NPRM. The purpose of this section is to ask the following additional, more detailed questions on this subject:

61. Would public acceptance of automatic restraints, especially nondetachable automatic belts and airbags, be significantly increased if an opportunity were provided for the public to become more familiar with the system?

62. What methods are available for promoting promising safety devices that may not be immediately popular?

63. Does experience with the occupant restraint standard and differing public views on airbags indicate a possibility of rejection of any requirement? Would some be more acceptable than others (e.g., mandating just passive belts)? If so, which ones, and why?

64. Does experience with ignition interlocks indicate that the public also will not accept automatic occupant restraints?

65. Public rejection after investments are made would result in the waste of substantial resources. Would it endanger other safety measures?

66. Please provide a copy of any public opinion survey on automatic restraints not already in the docket.

Cost and Technology Information

Cost

Manufacturer

To assist the Department in its decision-making, we specifically request current information that can be used to determine total system cost, and incremental cost over the replaced restraint systems. The Department desires cost information on manual belts, automatic belts, and airbags.

Unless a question expressly requests otherwise, the cost information should be based on the long term and exclude the start-up costs amortized over the first several years of production. The cost information for a particular type of restraint system should also be based on car lines that are originally designed to be equipped with that type of system. Finally, the information should be broken down by seating position and by costs common to all positions.

Specifically, the Department seeks the following information for each system that may be installed under the proposed alternatives. Manufacturers should provide this information for each car line they intend to produce:

67. Type of restraint system (manual belt, detachable automatic belt, nondetachable automatic belt, airbag).

68. The car lines to which this system would be applied, and the number of vehicles expected to be produced with the system, on an annual basis, in that car line.

69. A brief narrative description of the system, identifying the major sub-assemblies, the location of the sub-assemblies in the vehicle, etc., including items not required by the automatic restraint requirements, such as ignition interlocks installed in conjunction with detachable automatic belts.

70. A statement of which components and sub-assemblies will be manufactured by the manufacturer and which components will be purchased, and the volume of purchased components.

71. The manufacturer's variable cost of each sub-assembly, the price of purchased components, the cost of assembly, the cost of vehicle modification, etc. Indicate the price sensitivity of higher and lower volumes of those purchased components.

72. The manufacturer's variable cost of the components of the restraint system that would be replaced. For example, if automatic belts were to be utilized in a car line, identify the

variable cost of the manual belt system components, sub-assemblies, etc.

73. The magnitude of any future research, development, tooling, launch, etc., costs (i.e., capital costs) associated with automatic restraints.

Insurance

The agency requests comment on the precise estimates of insurance premium reductions for automatic restraints. In particular the agency seeks answers to the following questions:

74. Would *commercial* automobile liability premiums be affected by safety improvements from automatic restraints? If so, what portion of current aggregate premiums would be affected? How many vehicles are currently covered by commercial automobile liability premiums? How many of these vehicles are passenger cars?

75. How many vehicles are currently covered by private passenger automobile liability policies? How many vehicles are covered by private passenger physical damage policies? How many of these are passenger cars?

76. Would those portions of insurance premiums that exceed incurred losses (e.g., loss adjustment costs) be affected by safety improvements resulting from automatic restraints? If so, what is the ratio of these other costs to premiums earned? Would reductions in these other costs occur directly with reductions in safety, or would costs only decrease after significant levels of safety improvement?

77. What portion of aggregate insurance losses are associated with fatalities as opposed to injuries?

78. Would the increased use of automatic occupant restraints have any effect on life insurance premiums? If so, please describe the effect?

79. If all cars-in-use were equipped with airbags, how many accidents would occur annually that would result in airbag deployments? In what percentage of these accidents will airbags be replaced in the cars?

Technology

Airbag technology has evolved to where the Department has determined it to be technologically feasible. However, some questions remain on the system aspects of the installation. The agency seeks current information on the status of airbag system design. For example.

Original Equipment

80. How many sensors should there be and where should they be located?

81. How much redundancy is necessary in the electronic subsystems?

82. What is the best material for the bag?

83. What is the best approach to bag venting?

84. Is the airbag system senstive to vehicle size; that is, can one set of hardware be used in large cars as well as small cars?

85. Is an all mechanical system reliable enough for safe operation?

86. Are knee bolsters necessary in all cars?

Retrofit

87. Does the effectiveness of the airbag change for different steering wheel angles, and what is the affect of mounting such an airbag in a tilt wheel?

88. If these are serious problems, can they be solved and how much will the device then cost?

89. Can the sensor(s) be located and calibrated universally, or are there some unique requirements for each vehicle design?

90. Will there need to be a different amount of propellant for different sizes or types of vehicles?

91. Will there be a need for a skilled technician to install these devices?

IV. Analyses

The Department has considered the impacts of the proposals in this notice and determined that several of the proposals are major within the meaning of Executive Order 12291 and signficant within the meaning of the DOT regulatory policies and procedures. A Preliminary Regulatory Impact Analysis (PRIA) has been prepared and placed in the public docket. The key aspects of that document are discussed above in the sections regarding usage, effectiveness, benefits and costs of occupant restraints. A free copy of the analysis may be obtained by contacting the Docket Section.

The Department has also considered the economic impacts of these proposals for the purposes of the Regulatory Flexibility Act. I certify that none of the proposals would have a significant economic impact on a substantial number of small entities. Few of the affected vehicle manufacturers would qualify as small businesses within the meaning of that Act. Similarly, few of the safety belt or airbag manufacturers are small businesses. The original equipment suppliers of belt webbing are all large and diversified firms with over 1,000 employees. Although some firms that produce replacement belts for the after-market may qualify as small businesses, none of those firms rely on belt webbing sales as a major source of income. As to airbag manufacturers, they were either primarily large firms, or subsidiaries of large firms at the time of the rescision in 1981. Small organizations and governmental jurisdictions should not be substantially affected because even under the airbag only alternative, the percentage increase in the price of a new car would be only several points. Accordingly, the Department does not expect the purchases by these small entities to be substantially affected. Similarly, the Department does not expect that sales to the general public will be significantly affected. Thus, new car dealers should not experience a substantial economic impact. Nevertheless, the Department has included in the PRIA a discussion of the proposals' impacts on small entities.

Pursuant to the National Environmental Policy Act, the Department has prepared a draft environmental impact statement concerning the proposed alternatives. A copy of that draft statement has been placed in the Docket Section under the docket and notice numbers of this notice. Availability of the document and a request for public comments will be announced in the near future by the Environmental Protection Agency.

V. Public Participation

Public Comments

Interested persons are invited to submit comments on this NPRM. It is requested but not required that 10 copies be submitted.

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

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulations.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be

considered. However, we are proceeding under a tight, expedited schedule. Comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future action. The Department will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

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

Public Meetings

With the wide range of alternatives to be considered in this rulemaking proceeding, the Department seeks to narrow the issues through holding three public meetings. Data presented at the meetings will be made available for evaluation by other parties, subject to the agency regulation on treatment of confidential business information.

All interested persons are invited to attend the public meetings and to present oral or written data, views, and arguments Persons making oral comments are encouraged to submit their comments in written form either at the meetings or by mail to the docket. All written comments are subject to the deadlines and page limitations stated in this notice.

Persons desiring to make an oral statement at the public meetings should contact Mr. Robert Nelson of NHTSA's Office of Vehicle Safety Standards, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2264), by November 17, 1983, so that time limitations, if necessary, and the need for any special equipment, such as projecters, can be discussed and final arrangements can be made. Persons who have arranged to speak at one of the meetings are requested to submit a written summary of the main points in their testimony to Mr. Nelson by November 23, 1983. A schedule of persons making oral presentations at a particular meeting will be available on the date of that meeting.

Persons whose presentations include slides, motion pictures, or any other visual aids should plan to submit copies of them for the record at the meeting. Persons making oral presentations are requested but not required to submit 25 written copies of the full text of their presentation to Mr. Nelson no later than the beginning of the meeting.

No opportunity will be afforded the public to directly question participants in the meetings. However, the public may submit written questions to the presiding panel of Federal officials for the panel to ask of particular participants. The presiding officials reserve the right to ask questions of all persons making oral presentations.

A transcript of the meeting will be made and will be available for examination, along with any written comments submitted, in the NHTSA Docket Section, as soon as possible after the meeting.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407))

Issued in Washington, D.C. on October 14, 1983.

Elizabeth Hanford Dole,

Secretary of Transportation.

Formal Rule Changes

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that Standard No. 208 (49 CFR 571.208) be amended in accordance with one of the following alternatives. (Specific dates have been included in these alternatives partially for illustrative purposes to aid commenters in understanding the alternatives. However, those dates are also intended to promote comment on the leadtime and any appropriate phase-in that should be afforded.)

§ 571.208 [Amended]

Editorial note: The text of S. 4.1.3 of Standard 208 was removed from the Code of Federal Regulations on October 29, 1981 (46 FR 53419). The text of S. 4.1.3 is reprinted as an editorial note to 49 CFR Chapter V, revised October 1, 1983, reflecting a document published September 1, 1983 (48 FR 39908) as a result of a Supreme Court decision.

If one of the alternatives covered in this document is chosen that involves reinstatement of, or amendment to, S. 4.1.3, that section will be formally reinstated in the Code of Federal Regulations and then amended if necessary.

Alternative I

Air Bag Only—All Front Seating Positions

1. S4.1.2 would be revised to read:

A4.1.2 *Passenger cars manufactured from September 1, 1973, to August 31, 1986.* Each passenger car manufactured from September 1, 1973, to August 31, 1986, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2 or S4.1.2.3. A protection system that meets the requirements of S4.1.2.1 and S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. S4.1.3 would be revised to read:

S4.1.3 *Passenger cars manufactured on or after September 1, 1986.* Each passenger car manufactured on or after September 1, 1986, shall—

(a) At each front designated seating position meet the frontal crash protection requirements of S5.1 by an inflatable air cushion restraint system that requires no action by vehicle occupants;

(b) At each rear designating seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7.1 and S7.2; and

(c) Either—

(1) Meet the lateral crash protection requirements of S5.2 and the roll-over crash protection requirements of S5.3 by an inflatable air cushion restraint system that requires no action by vehicle occupants; or

(2) At each front seat designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7 through S7.3, and meet the requirements of S5.1 with front test dummies as required by S5.1, restrained by the Type 1 or Type 2 seat belt assembly (or the pelvic portion of any Type 2 seat belt assembly which has a detachable upper torso belt) in addition to the inflatable air cushion restraint system that requires no action by vehicle occupants.

Air Bag Only—Drive and Right Front Seat Passenger

[The regulatory language would be similar to that for the air bag only—all front seating positions, except the requirement for any passenger car to comply with the automatic restraint requirements of S4.1.3 would be limited to the designated seating positions for the driver and right front passenger. The center seating position, if any, could be equipped with a manual belt.]

Air Bag—Driver Only

[The regulatory language for this alternative would be similar to that used for the air bag only—all front seating position alternatives, except the requirement for any passenger car to comply with the automatic restraint requirements of S4.1.3 would be limited to the designated seating position of the

driver. The seating positions for the right front and center front seat passengers could be equipped with manual belts.]

Air Bags and Nondetachable Automatic Belts—All Front Seating Positions

1. S4.1.2 would be revised to read:

S4.1.2 *Passenger cars manufactured from September 1, 1973, to August 31, 1986.* Each passenger car manufactured from September 1, 1973, to August 31, 1986, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3. A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2. may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. S4.1.3 would be revised to read:

S4.1.3 *Passenger cars manufactured on or after September 1, 1986. Each passenger car manufactured on or after September 1, 1986, shall—*

(a) At each front designated seating position meet the frontal crash protection requirements of S5.1 by means that require no action by vehicle occupants;

(b) At each rear designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7.1 and S7.2; and

(c) Either—

(1) Meet the lateral crash protection requirements of S5.2 and the roll-over crash protection requirements of S5.3 by means that require no action by vehicle occupants; or

(2) At each front designated seating position have a Type I or Type 2 seat belt assembly that conforms to Standard No. 209 and S7 through S7.3, and meet the requirements of S5.1 with front test dummies as required by S5.1, restrained by the Type 1 or Type 2 seat belt assembly (or the pelvic portion of any Type 2 seat belt assembly which has a detachable upper torso belt) in addition to the means that require no action by vehicle occupants.

3. S4.5.3.3.(a) would be revised to read:

* * * * *

(a) Conform to S7.1 and have a single emergency release mechanism which has components that are readily accessible to a seated occupant and which does not permit the belt to separate.

* * * * *

4. S4.5.3.3.(b)(B) would be revised to read:

* * * * *

(B) The driver's automatic belt is not in use, as determined by the emergency release mechanism being in the release position.

* * * * *

Air Bags and Nondetachable Automatic Belts—Driver and Front Right Seat Passenger

[The regulatory language for this alternative would be similar to that used for the air bag and nondetachable automatic belts—all front seating positions, except that the requirement for any passenger car to comply with the automatic restraint requirements of S4.1.3 would be limited to the designated seating positions for the driver and the right front seat passenger. The center seating position, if any, could be equipped with a manual belt.]

Air Bags and Nondetachable Automatic Belts—Driver Only

[The regulatory language for this alternative would be similar to that used for the air bag and nondetachable automatic belts—all front seating positions, except that the requirement for any passenger car to comply with the automatic restraint requirements for S4.1.3 would be limited to the designated seating position for the driver only. The seating positions for right front seat and center front seat passengers could be equipped with a manual belt.]

Automatic Restraint Requirements—Driver and Front Right Seat Passenger

[The regulatory language for this alternative would be similar to that used for Alternative II (retention) except that the requirement for any passenger car to comply with the automatic restraint requirements of S.4.1.3 would be limited to the designated seating positions for the driver and the right front seat passenger. The center seating position, if any, could be equipped with a manual belt.]

Automatic Restraint Requirements—Driver Only

[The regulatory language for this alternative would be similar to that used for Alternative II (retention) except that the requirement for any passenger car to comply with the automatic restraint requirements of S.4.1.3 would be limited to the designated seating positions for the driver. The seating positions for the right front and center front passengers could be equipped with manual belts.]

Air Bag Retrofit Capability

[An amendment would be issued requiring that, beginning September 1, 1986, each passenger car whose front designated seating positions are not equipped with inflatable air cushion restraint systems or automatic belts shall be equipped with the necessary mechanical and electrical connections to permit the installation of an inflatable air cushion restraint system for each of those positions.]

Alternative II

Retain While Establishing New Compliance Date

1. S4.1.2 would be revised to read (a two-year phase-in is included in this alternative because one was included in the rescinded automatic restraint requirement. When that requirement was originally issued in 1977, the phase-in was for three years. However, the period was shortened to two years in early 1981. Comment is requested on whether there should be any phase-in):

S4.1.2 *Passenger cars manufactured from September 1, 1973, to August 31, 1987.* Each passenger car manufactured from September 1, 1973, to August 31, 1986, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2 or S4.1.2.3. Each passenger car manufactured from September 1, 1986, to August 31, 1987, inclusive, shall meet the requirements of S4.2.1, S4.1.2.2 or S4.1.2.3, except that a passenger car with a wheelbase or more than 100 inches shall meet the requirements of S4.1.3. A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. The title and beginning of the first sentence of S4.1.3 would be revised to read:

S4.1.3 *Passenger cars manufactured on or after September 1, 1987* Each passenger car manufactured on or after September 1, 1987, shall * * *

Alternative III

Rescission

1. S4.1.2 would be amended by revising it to read:

S4.1.2 *Passenger cars manufactured on or after September 1, 1973.* Each passenger car manufactured on or after September 1, 1973, shall meet the requirements of S4.1.2.1, S4.1.2.2 or S4.1.2.3. A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. The heading of S4.1.2.1 would be amended by revising it to read:

S4.1.2.1 *First option—Frontal/Angular Automatic protection system.*

* * * * *

3. S4.1.3 would be removed.

Postpone During Demonstration

[The regulatory language for this alternative would be similar to that used for the alternative retaining the automatic restraint requirement. The dates would vary, based upon the period necessary to conduct the demonstration.]

Postpone While Seeking Legislation

[The regulatory language for this alternative would be similar to that used for the alternative retaining the automatic restraint requirement. The dates would vary, based upon the period necessary to seek legislation.]

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List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

S. 216 / Pub. L. 98-127 Federal Anti-Tampering Act (Oct. 13, 1983; 97 Stat. 831) Price: $1.50.

H.R. 3379 / Pub. L. 98-128 To name a United States Post Office Building in the vicinity of Lancaster, Pennsylvania, the "Edwin D. Eshleman Post Office Building". (Oct. 14, 1983; 97 Stat. 834) Price: $1.50.

H.R. 2840 / Pub. L. 98-129 Fur Seal Act Amendments of 1983. (Oct. 14, 1983; 97 Stat. 835) Price: $2.00.

S.J. Res. 128 / Pub. L. 98-130 To designate the day of October 22, 1983 as "Metropolitan Opera Day". (Oct. 14, 1983; 97 Stat. 847) Price: $1.50.