AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

12-30-83
Vol. 48 No. 252
Pages 57461-57704

federal register

Friday
December 30, 1983

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Administrative Conference of United States
Federal Grain Inspection Service

Agricultural Research
Agricultural Marketing Service

Air Pollution Control
Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Communications Common Carriers
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Income Taxes
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Marine Safety
Coast Guard

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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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 305 and 310

Recommendations of the Administrative Conference

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

SUMMARY: The Administrative Conference of the United States, at its Twenty-Seventh Plenary Session, adopted two recommedations and one statement of views. The subjects of these Conference actions are described below. Recommendations and statements of the Administrative Conference are published in full text in the **Federal Register** upon adoption. Complete lists of recommendations and statements, together with the texts of those deemed to be of continuing general interest, are published in the Code of Federal Regulations (1 CFR Parts 305 and 310).

DATES: These recommendations and the statement were adopted December 15–16, 1983 and issued December 27, 1983.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, General Counsel (202–254–7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576. The Conference studies the efficiency, adequacy and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judicial Conference of the United States. (5 U.S.C. 574(1)).

At its Twenty-Seventh Plenary Session, held December 15–16, 1983, the Assembly of the Administrative Conference of the United States adopted two recommendations and one statement of views.

Recommendation 83–3, Agency Structures for Review of Decisions of Presiding Officers Under the Administrative Procedure Act, addresses the organizational structures which agencies establish to review decisions of presiding officers. It concludes that it is impossible to prescribe a single ideal review structure, and it urges Congress to permit agencies sufficient flexibility to design structures suited to their program needs. In addition, it sets forth criteria and guidelines for agencies to apply in establishing new review structures or revising present structures.

Recommendation 83–4 deals with the use of Freedom of Information Act (FOIA) for discovery purposes by parties in litigation with the Government. The Conference recognizes that use of the FOIA in this manner may disadvantage the Government's position in litigation by surprising Government counsel at trial or administrative hearing, or by placing an undue burden on Government counsel prior to trial or hearing through duplicative requests. The Conference recommends that Congress alleviate these potential disadvantages by amending the FOIA to require a party in litigation with the Government to notify counsel for the Government promptly of any FOIA requests filed on the party's behalf for the purpose of obtaining information for use in the litigation. The Conference also recommends that courts and agencies be empowered to preclude a party from offering in the proceeding agency records obtained in this way if the party has not compiled with the notice requirement.

In the "Statement on Agency Use of an Exceptions Process to Formulate Policy", the Conference commends the report of its consultant, Peter Schuck, who reviewed the operation of the exceptions process of the Department of Energy during the operation of DOE's petroleum price control and allocation program. In a formulation of seven "lessons" to be learned from the DOE experience, the Conference cautions against excessive use of an exceptions process when rulemaking is more suitable, states that "emergency" programs that rely heavily on exceptions for their operation should be reviewed periodically to see if the emergency is continuing, and offers several procedural and organizational suggestions for the operation of a sound exceptions process.

The transcript of the Plenary Session will be available for public inspection at the Conference's offices at Suite 500, 2120 L Street, NW., Washington, D.C.

List of Subjects

1 CFR Part 305

Administrative practice and procedure, Freedom of Information Act.

1 CFR Part 310

Administrative practice and procedure, Rulemaking.

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1. The table of contents to Part 305 of Title 1 CFR is amended to add the following new sections:

Sec.
305.83–3 Agency structures for review of decisions of presiding officers under the Administrative Procedure Act (Recommendations 83–3).
305.83–4 The use of the Freedom of Information Act for discovery purposes (Recommendation 83–4).

2. Section 305.83–3 is added to Part 305 as follows:

§ 305.83–3 Agency structures for review of decisions of presiding officers under the Administrative Procedure Act (Recommendation No. 83–3).

This recommendation is addressed to the organizational structures which agencies establish to review decisions of presiding officers (ordinarily, administrative law judges) in proceedings governed by sections 556 and 557 of the Administrative Procedure Act or otherwise involving agency determinations on the record after opportunity for a hearing. It is based on a study of structures now in use and their relationship to the accuracy, efficiency and acceptability of the adjudicatory process.

The study concludes that variations in the characteristics and numbers of adjudicatory proceedings in different agencies and in the organization and

functions of such agencies caution against recommending any single structure for review of adjudicatory decisions made by presiding officers. By and large the present review structures in the agencies studied seem well adapted to the particular circumstances of the agency. Consequently, the purpose of this recommendation is not to effect any drastic change in present structures, but to provide general guidance to agencies which are establishing new review structures or revising present ones.

In selecting among possible structures for review of adjudicatory decisions four basic precepts should be kept in mind. The first two involve considerations of efficiency; the others involve considerations of accuracy and acceptability.

First, efficiency is generally served by spreading the review load over a number of reviewers adequate to keep review time low relative to initial decision time. Application of this precept requires attention to three variables: the total relevant adjudicatory caseload, the difficulty of the cases, and the number of reviewers.

Second, efficiency also is served by minimizing repetition; the same matter seldom should be put in issue more than once. This cautions against *de novo* review, instead favoring more limited review of issues properly committed to a subordinate.

Third, accuracy depends on matching the skills of the reviewer to the issues presented. Officials integrated into the agency's policymaking apparatus should review decisions that significantly involve policy issues while officials trained in factfinding should review decisions presenting fact issues. Furthermore, the level of the reviewer should match the magnitude of the issue. Agency heads with numerous other responsibilities should be insulated from routine cases, but attempts to force resolution of major policy issues at lower levels seem misguided except when those issues can readily be addressed by rulemaking. Similarly, individual reviewers easily can address relatively simple issues, whether of fact or of policy, while more complex questions may call for collegial consideration.

Fourth, acceptability generally requires that *some* review by a higher agency authority be available at the instance of the aggrieved party, at least in cases of great impact on individual parties. Inspection of a substantial penalty and removal of a valuable government benefit are obvious candidates for review as of right.

Recommendation

1. Agency Head Review

a. In drafting legislation governing the institutional structure for agency adjudicatory proceedings, Congress should favor delegation of decisional authority and should not prescribe detailed review structures. The presumption should be that each agency head is best able to allocate review functions within the agency.

b. Congress should authorize agency heads [1]—

(i) to review initial decisions of presiding officers in adjudicatory matters on a discretionary basis, as described in Administrative Conference Recommendation 68–6, section 2(b); and

(ii) to delegate review authority on an *ad hoc* basis or with respect to any or all classes of decisions to a subordinate official or board of officials either with possibility for further review by the agency head in his discretion or without further administrative review.

Where the agency head retains the right of discretionary review of an initial or intermediate decision, the agency should provide by regulation the grounds and procedures for invoking such review, in accordance with the guidelines set forth in section 2(b) of this Recommendation.

c. Only in the rarest circumstances should Congress require agency heads to review decisions personally. These circumstances are where:

(i) In the case of an agency headed by an individual, the subject matter at issue is of such importance that attention at the very highest level is imperative; or

(ii) In the case of an agency headed by a collegial body, the subject matter at issue is of special importance, the cases comprising the relevant class of decisions are few in number, and the agency either has no other significant non-adjudicatory functions or has few such functions and has a sufficient number of members adequately to perform review and other tasks. This paragraph does not address requirements for discretionary review procedure under which a case may be brought before the agency for review on the vote of one or more members of the agency.

Nothing in this section is intended to deal with the appropriate allocation of responsibilities between the agency head and his subordinates in connection with the decisions in cases which he personally reviews.

2. Forms of Delegations

a. *General.* Agency heads having powers of delegation should delegate review authority on a class, rather than case-by-case, basis whenever a substantial number of cases is adjudicated at the agency. Delegations on an *ad hoc* basis should be limited to situations where adjudicatory proceedings are relatively few and of such varied nature as to make selection of a single qualified reviewing authority difficult.

b. *Reservation of Authority.* Where an agency head delegates review authority, any authority he retains to grant further review should normally be exercisable only in his discretion on a showing that important policy issues are presented or that the delegate erroneously interpreted agency policy. Multilevel review of purely factual issues should be avoided.

3. Choice of Delegate

When an agency head determines to make a standing delegation of his review authority, either unconditionally or subject to further discretionary review, he may choose between delegating to a subordinate authorized to act individually, *e.g.*, a judicial officer, or to an employee board authorized to act collegially. A multi-member agency might also delegate to one of its members or a panel made up of its members. In choosing the form of reviewing authority, the agency head should consider the function to be performed by the authority and the degree of finality expected of its decisions. This section sets forth some factors which may guide an agency head in his choice among these forms. The list is not intended to be exclusive, nor to suggest that in every case there are clear grounds for preferring one form to another.

a. *Individual Delegates.* Where a standing delegation of review authority is to be adopted, the following factors favor a delegation to an individual delegate (or to a number of delegates authorized to review decisions individually) rather than to several delegates acting jointly: the number of cases is large, the cases are relatively simple, and the predominant issues concern descriptive facts, or, to the extent complex issues are presented, their resolution generally depends on application of a single skill or discipline, such as legal interpretation, or application of knowledge uniquely associated with the medical or engineering professions or with a

[1] "Agency head" is used in the functional sense of the individual or body politically responsible for the administration of the program in question whether this responsibility is vested by statute or by delegation from a superior official, such as the Secretary of a department.

discrete branch of science rather than on some combination of skills or disciplines.

b. *Review Boards.* In deciding whether a delegation instead should be made to a group of persons jointly charged with review of ALJ decisions, among the factors that should be considered as favoring such delegation are: the caseload is substantial (but somewhat less than that contemplated by paragraph (a) above), and includes more complex cases that consume a significant amount of time at the initial decision stage, and cases presenting a class of issues dependent for resolution on the application of several different skills or disciplines.

c. *Agency Panels.* In some circumstances, a multi-member agency may find it desirable to make a standing delegation of review authority to a panel of agency members. Factors favoring such delegation include a large adjudicatory caseload and difficulty in elaborating or clarifying agency policy (especially through formal mechanisms such as rulemaking) in a manner that will substantially limit the number of significance of policy issues presented in adjudications.

4. Standards for Grant of Review

a. *Review of Right; Discretionary Review.* Delegation of review authority does not necessarily imply that such review must be available as of right. While review of right is appropriate in certain cases because of the severe consequences to the parties, such as cases involving the imposition of a substantial penalty or the revocation of a license, agency heads should consider the desirability in routine cases of authorizing the review authority to decline review in the absence of a reasonable showing that:

(i) A prejudicial procedural error was committed in the conduct of the proceeding, or

(ii) The initial decision embodies (i) a finding or conclusion of material fact which is erroneous or clearly erroneous, as the agency may by rule provide; (ii) a legal conclusion which is erroneous; or (iii) an exercise of discretion or decision of law or policy which is important and which should be reviewed.

b. *Review Sua Sponte.* Normally, a reviewing authority should call up a case for review *sua sponte* only where policy issues are involved and the functions of that authority include the resolution of such issues.

3. Section 305.83–4 is added to Part 305 as follows:

§ 305.83–4 The use of the Freedom of Information Act for discovery purposes (Recommendation No. 83–4).

The Freedom of Information Act (FOIA) and discovery provide separate mechanisms for obtaining the disclosure of Government documents. Any person may invoke at any time the release provisions of the FOIA by requesting an agency to disclose any reasonably described agency records. A requester's need for the records and his purpose in making the request normally do not affect the right to obtain disclosure. The agency must release the records unless they fall within one of the nine exemptions specified in the Act. On the other hand, a person may obtain the disclosure of Government documents through discovery only if he is a party to a judicial or administrative proceeding and if the procedural rules governing the proceeding include provisions for discovery. If both these conditions are satisfied, the party may normally obtain from the Government through discovery unprivileged documents relevant to the subject matter of the pending proceeding.

The separate disclosure mechanisms established by the FOIA and by discovery serve different purposes. Congress' fundamental objective in enacting the FOIA was to permit the public to inform itself about the operations of the Government. All members of the public are beneficiaries of the Act because Congress' goal was a better informed citizenry. A requester's rights under the Act are therefore neither diminished nor enhanced by his status as a party to litigation or by his litigation-generated need for the requested records. Discovery, on the other hand, serves as a device for narrowing and clarifying the issues to be resolved in litigation and for ascertaining the facts, or information as to the existence or whereabouts of facts, relevant to those issues. In the discovery context, a party's litigation-generated need for documents does affect the access available to him and may result in the disclosure to him of documents not available to the public at large.

Discovery does in fact provide parties to litigation with the more reliable mechanism for obtaining from the Government the information which they need to prepare for trial or hearing. Parties to litigation nevertheless sometimes use the FOIA for discovery purposes because they hope to obtain the release of additional agency records for use in litigation, or to obtain the release of records at an earlier time. Limitations on the availability of discovery explain these uses of the FOIA. Discovery is a pretrial procedure designed to permit the parties to a proceeding to prepare for trial or, if possible, to resolve the controversy without a trial. It is not designed to provide the parties with the level of access to Government documents furnished to the general public by the FOIA; and even the most generous rules of discovery do not always provide the parties with that level of access.

There are several limitations on the Government's disclosure obligations in the discovery context that account for use of the FOIA as a supplemental discovery device. First, discovery is normally available to the parties only after a proceeding has begun and then only for a short period of time before trial or hearing. Second, it may be used only to obtain documents that are relevant, or that may lead to information that is relevant, to the pending action. Recent reform efforts have sought to keep civil discovery in the federal courts within reasonable bounds by emphasizing that the purpose of discovery is not the disclosure of information but the simplification of the matters in dispute. More specifically, the 1980 and 1983 amendments to the discovery rules in the Federal Rules of Civil Procedure seek to prevent "overdiscovery" by increasing the trial judge's supervisory role. Less generous discovery is available in criminal proceedings than in civil actions; and, in some administrative adjudications, no formal discovery is available at all.

The Conference believes that the use of the FOIA for discovery purposes is a matter of valid concern to the Government because that use, unlike other uses of the FOIA, may disadvantage the Government's position in litigation in several ways. First, a party in litigation with the Government may obtain the release of agency records without the knowledge of Government counsel and then seek to use those records to surprise Government counsel at trial or hearing. Second, a party in litigation with the Government may disrupt the Government counsel's trial preparation by seeking, perhaps on the eve of the trial or hearing, the release under the FOIA of records in the Government's litigation files. In these cases, the Government counsel must divert attention from trial preparation in order to prevent a FOIA release to an opposing party of sensitive, nondisclosable records. Under the FOIA, unlike in discovery, the Government does not enjoy the protection of a cut-off date after which no further requests can be made. Third, a party in litigation with the

Government may request production of the same documents under the FOIA and in discovery, thus necessitating duplicative searches and releases. In these cases, the Government's primary concern is not the extra burden imposed on the agency's public information office in processing the party's FOIA request, but the burden imposed on counsel representing the Government to protect himself from duplicative effort and to keep himself informed of the Government documents obtained by opposing parties.

Some recent proposals to amend the FOIA address the problem by temporarily denying the use of the FOIA to a party to a pending administrative or judicial proceeding where the agency records in question may be requested from the Government through discovery.[1] The Conference declines to take a position on these proposals, but prefers to endorse a relatively modest change in the law because the evidence is inconclusive that a substantial burden to the Government is caused by use of the FOIA for discovery purposes and because the proposals raise significant concerns of coverage (i.e., applicability to proceedings where discovery is limited) and enforceability.

If the FOIA does remain fully available to a party in civil litigation with the Government, the potential disadvantages to the Government will be at least partially alleviated by requiring the party to notify Government counsel of all FOIA requests made by or on behalf of the party for the purpose of obtaining information for use in that litigation. Through notice of these FOIA requests, Government counsel will be able to learn what records the agency is releasing in response to the requests. This should eliminate any danger of surprise at trial or hearing. Also, a simple inquiry to the other side or to the agency FOIA office at the inception of discovery can determine whether the party made any prior FOIA requests that relate to the litigation. Advance notice of a party's FOIA requests may also permit Government counsel to coordinate FOIA and discovery searches for the same records and to avoid duplicative searches. Counsel will therefore be in a stronger position to protect his litigation files, although he may still need to divert his attention from trial preparation in order to assist the agency's public information office in resisting the disclosure of exempt records.

Finally, courts have recognized that the FOIA should not be used to delay judicial or administrative proceedings.[2] The Conference believes that parties to litigation should not be able to use the FOIA to delay ongoing litigation in any fashion. Congress, or the courts and the administrative agencies through exercise of their rulemaking or decisional powers, may properly provide that pendency of a FOIA request, or of proceedings related to such a request, should not affect the progress of litigation to which the requested information may arguably pertain.

Recommendations

1. Congress should amend the Freedom of Information Act (FOIA) to require a party to a judicial action or to an administrative adjudication or formal rulemaking proceeding, to which the Government is also a party, to notify counsel for the Government promptly of any FOIA requests made by the party, by his counsel, or by some other person acting on the party's behalf, during the pendency of the proceeding for the purpose of securing the release of agency records that may be relevant to the proceeding.

2. Congress should also provide that, if a party does not comply with this notice requirement, the court or agency conducting the proceeding may preclude the party from offering in the proceeding any agency records released in response to the request.

PART 310—MISCELLANEOUS STATEMENTS

4. The table of contents of Part 310 of Title 1 CFR is amended to add the following new section:

Sec.
310.10 Statement on agency use of an exceptions process to formulate policy.

5. Section 310.10 is added to Part 310 to read as follows:

§ 310.10 Statement on agency use of an exceptions process to formulate policy.

The Administrative Conference commissioned a study[1] of the Department of Energy's petroleum allocation and entitlements program as administered through an "exceptions" process by the Office of Hearing and Appeals. The program covered by the study applied to the petroleum industry from 1973 to 1981, a period characterized by rapidly changing conditions in the industry and several periods of emergency.

The Conference believes that the experiences of this particular "exceptions" process, while unique to this program in important respects, are worth sharing with the Congress and with those agencies that may administer a regulatory program—especially in the context of an emergency—in which individuals or classes seek waivers, exemptions, variances, or other particularized exceptions to rules of general applicability.[2]

The Regulatory Framework

The petroleum industry began to come under comprehensive federal regulation in 1970 with the advent of anti-inflation controls. In the Emergency Petroleum Allocation Act of 1973 Congress mandated a program of price and allocation controls to be administered by an energy agency, ultimately the Department of Energy (DOE).

Under this program, the energy agency issued rules prescribing distributional patterns and prices for petroleum products among producers, refiners, distributors, and end users. To deal with inequities created by the regulatory program, a "safety valve" process was established to grant exceptions in cases where individual firms suffered disproportionately. The exceptions office, ultimately called the Office of Hearings and Appeals (OHA), quickly became an important locus of power within DOE. OHA was kept separate and autonomous from the Economic Regulatory Administration (ERA), the rulemaking and enforcement arm of the Department.

The Office of Hearings and Appeals had the authority to issue exceptions to regulations, special redress orders, modification and recision orders, and stays of pending orders. OHA could order any firm to sell or buy crude oil or refined products from any other firm in the industry under terms prescribed by OHA. These powers were exercised subject to the approval of a Departmental administrative review committee, and, if consensus was not reached, to the possibility of Secretarial review. The process was heavily

[1] See, e.g., S. 774, 98th Cong., 1st Sess. (1983).

[2] See, e.g., the "DeLorean case," *United States v. United States District Court, Central District of California*, 717 F. 2d 478 (9th Cir. 1983).

[1] "When the Exception Becomes the Rule: Regulatory Equity, the Exceptions Process and the Formulation of Energy Policy" by Peter H. Schuck (1983). While not endorsing every statement and conclusion expressed in the report, the Conference commends the report for its value in examining a significant exceptions program during periods of difficulty.

[2] The Conference expresses its views here in a "statement" rather than the more forceful "recommendation" format because the program that was studied in detail is currently winding down, and because the data compiled on the exceptions processes of other agencies is not sufficient to support a recommendation of universal applicability.

influenced by OHA's leverage and expertise.

Achievements and Problems

Four detailed case studies were made of the operation of OHA: the subsidization of small refiners during 1974–1981, the handling of disparities caused by the Iranian oil embargo in 1979, the pricing of Alaska crude oil, and the motor gasoline crisis of 1979. Each of these cases has its own peculiar context and history; as a whole they defy easy summarization. It seems undeniable, however, that as energy regulation became increasingly controversial in the 1970's, DOE policymakers—on matters of considerable importance—often deferred to the judgment and actions of OHA.

That office gradually was transformed from a mere safety valve dispensing equitable exceptions to individual firms caught up in over-broad rules into an important policymaking body within DOE, designing many of the substantive specifications for the very regulatory system whose pressures OHA was supposed to relieve.

OHA's achievements during the period of controls were impressive. OHA was able to process a large caseload and to decide important cases quickly. OHA decisions were generally regarded as being of high professional and intellectual quality. OHA was able to provide immediate relief when it appeared that delay would be tantamount to denial.

Nevertheless, problems began to crop up, especially as procedures designed for emergency relief became instruments for broad gauged policymaking.

Indeterminate equitable standards. Energy legislation has always prescribed three standards: relief must be necessary to prevent "special hardship," "inequity," or "unfair distribution of burdens." OHA elaborated these extremely ambiguous standards on a case-by-case basis; OHA's published guidelines sometimes provided little assistance as to the meanings of the standards.

Informal procedures. Neither the DOE Act nor the Administrative Procedure Act prescribes OHA's procedures in exceptions cases. The procedures devised by OHA were highly informal, combining elements of notice-and-comment rulemaking with an opportunity for a relatively summary adjudicative hearing. The courts were highly deferential to OHA's choice of procedures, citing the "emergency" nature of the program, even during periods when no actual emergency existed. The flexibility and informality that permitted expedition also occasioned criticism from regulatory participants who complained about lack of sufficient notice, and about inadequate procedures for discovery, hearings, and review and also made claims of unfair ex parte communications and combination of functions.

The "safety valve" mentality. By all accounts, DOE's rulemaking arm, the ERA, on many occasions deferred to OHA on fundamental policy problems that ought to have been confronted and resolved through a legislative-type process. Despite OHA's efforts to open its significant proceedings to public comment and to broaden the policy focus of the proceedings, the case-by-case exceptions procedure was not well-suited to development of sound policy and generally applicable rules. By its nature an exceptions process tends to examine anomalies and emergencies rather than typical situations. OHA's analytical focus was on hardships of individual firms rather than upon the effects that particular decisions could have on the industry as a whole or on consumers generally.

Interim relief. OHA often found it necessary to provide expedited relief to applicants after only a summary hearing and before issuing a proposed final decision for public comment. Relief was undoubtedly sometimes necessary to prevent irreparable harm due to delay, but reliance on interim decisions by those in the market led to adjustments and created new equities that made retractions difficult and possibly unjust.

Lessons

It is difficult fully and fairly to evaluate OHA's performance and the role of the exceptions process without taking into consideration two crucial factors: the comparative weakness of the DOE rulemaking process and the enormous problems associated with any program designed to regulate the entire petroleum industry. Nor are the insights gleaned in this study necessarily transferable to other programs in other agencies. Because many of the issues raised by DEO's exception process are endemic to broad regulatory programs, however, the Conference offers, to the extent they may be helpful, the following suggestions as an aid to congressional oversight and agency self evaluation.

1. Excessive use of exceptions. Agencies should guard against the temptation to avoid necessary rulemaking, including the reconsideration of existing rules, through excessive reliance upon an exceptions process.

2. Emergency programs. Where an exceptions process begins as part of an emergency program, consideration should periodically be given to whether the emergency is continuing. Abbreviated agency procedures and extraordinarily deferential judicial review—which may be appropriate for an emergency—should be replaced by conventional agency and judicial standards of conduct when the emergency is over.

3. Equitable criteria. In some circumstances, explicit congressional prescription of the equitable or other criteria that shall govern an exceptions process would be helpful. Agencies should consider the issuance of regulations further defining those criteria and prescribing the procedures to be used in exceptions proceedings.

4. Procedures tailored to equities. Procedures governing exceptions cases should reflect the need for particularized regulatory equity in the applicable program. The procedures provided for relatively routine "hardship" applications and for those cases of broader policy significance should differ to take account to the differing demands for information, fairness, and legitimacy. To the extent feasible in light of the need for speedy action, adequate notice of an application for exceptions relief should be given to all interested members of the public, and relief should be granted or denied only after an opportunity for full development of the relevant factual and policy issues.

5. Emergency relief. Where an exceptions program allows for emergency, interim relief, an agency should consider the inclusion of suitable mechanisms—such as an escrow fund, interest obligation, or expiration date for interim order—to restore the *status quo ante* insofar as possible in the event that such relief is subsequently determined to be inappropriate.

6. Exceptions tribunal. The form and independence of the tribunal that is to decide exceptions cases should depend chiefly upon the policy significance of the exceptions decision and the value of exceptions relief to applicants. The greater the precedential and policy significance of an exceptions decision, the more closely the tribunal should be integrated into the policy-sensitive and politically-accountable decision processes of the agency. The more the exceptions decision is routine, without precedential significance, and purely equitable or "hardship" in nature, the more readily it may be delegated to decision processes that are more autonomous and adjudicatory in character.

7. Significant cases. If an exceptions tribunal decides a case with broad policy significance, the proceeding should be conducted much as a rulemaking with broadened participation in the exceptions adjudication and with an opportunity for public comments on all significant policy, factual, and remedial issues in the case.

Dated: December 27, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 83-34702 Filed 12-29-83; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 301, 319, 321, 330, 352, 353, 354, and 360

[Docket No. 83-337]

OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends 7 CFR Chapter III by adding OMB control numbers assigned to collections of information in regulations administered by Plant Protection and Quarantine. This action is taken to comply with the Paperwork Reduction Act and OMB regulations.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Nicholas E. Bedessem, Regulatory Coordination Specialist, RCS, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5533.

SUPPLEMENTARY INFORMATION:

List of Subjects in 7 CFR Parts 301, 319, 321, 330, 352, 353, 354 and 360

Reporting and recordkeeping requirements, Paperwork requirements.

Accordingly, Chapter III, Subtitle B of Title 7, Code of Federal Regulations, is amended as set forth below.

PART 301—DOMESTIC QUARANTINE NOTICES

§§ 301.45-1, 301.45-12, 301.45-14 [Amended]

1. Sections 301.45-1(g), 301.45-12(a), and 301.45-14(b) are amended by adding at the end of each of these paragraphs the following: "(Approved by the Office of Management and Budget under control number 0579-0074)"

PART 319—FOREIGN QUARANTINE NOTICES

§§ 319.8-2, 319.8-4, 319.8-5, 319.24-1, 319.24-3, 319.24-4, 319.27-5, 319.27-6, 319.37-3—319.37-5, 319.37-7, 319.37-10, 319.37-11, 319.41-2, 319.41-4, 319.41-6, 319.55-2, 319.55-5, 319.55-7, 319.56-3, 319.56-5, 319.74-4, 319.74-5, 319.75-3, 319.75-5, 319.75-6, 319.75-9 [Amended]

2. Sections 319.8-2, 319.8-4, 319.8-5, 319.24-1, 319.24-3, 319.24-4, 319.27-5, 319.27-6, 319.37-3, 319.37-4, 319.37-5, 319.37-7, 319.37-10, 319.37-11, 319.41-2, 319.41-4, 319.41-6, 319.55-2, 319.55-5, 319.55-7, 319.56-3, 319.56-5, 319.74-4, 319.74-5, 319.75-3, 319.75-5, 319.75-6, 319.75-9 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0049)"

PART 321—RESTRICTED ENTRY ORDERS

§§ 321.4, 321.7 [Amended]

3. Sections 321.4 and 321.7 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0049)"

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

§§ 330.201, 330.202, 330.211, 330.300 [Amended]

4. Sections 330.201, 330.202, 330.211 and 330.300 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0054)"

§ 330.400 [Amended]

5. In § 330.400, paragraph (b)(2) is amended by adding at the end thereof the following: "(Approved by the Office of Management and Budget under control number 0579-0054)"

PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

§§ 352.6, 352.7 [Amended]

6. Sections 352.6 and 3652.7 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0049)"

PART 353—PHYTOSANITARY EXPORT CERTIFICATE

§ 353.5 [Amended]

7. Section 353.5 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0052)"

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

§ 354.1 [Amended]

8. Section 354.1 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0055)"

PART 360—NOXIOUS WEED REGULATIONS

§ 360.300 [Amended]

9. Section 360.300 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0054)"

(44 U.S.C. 35)

Done at Washington, D.C. this 28th day of December, 1983.

H. L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-34706 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

7 CFR Part 800

Regulation Review; Administration

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is publishing, without change, as a final rule its proposed rule on Administration published in the **Federal Register** on September 16, 1983 (48 FR 41595). This action amends the regulation on (1) Administration by revising the section to clarify and condense the provision and to reference the Administrator's delegated responsibilities under the Agricultural Marketing Act of 1946; (2) Information about the Service, Act, and regulations by deleting the term "regional office" and other minor superfluous wording and by substituting the term "agency" for "official agency"; (3) Public information by deleting all

references to the Administrative Staff and replacing them with references to the Administrator and FGIS.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the inspection and weighing services do not meet the requirements for small entities, and this action poses no new or additional duties or obligations to business entities involved in the loading, weighing, handling, or sampling of grain.

Review of Regulations

The review of the regulations on Administration (7 CFR 800.2—800.8) included a determination of the continued need for and consequences of the regulations. An objective was to assure that the language of the regulations is clear and that the regulations are consistent with FGIS policy. FGIS determined that these regulations in general are serving their intended purposes; are consistent with FGIS policy; and should remain in effect. However, in the September 16, 1983, **Federal Register** (48 FR 41595) FGIS proposed to amend:

1. Section 800.2 by revising the section to clarify and condense the provision and to reference the Administrator's delegated responsibilities under the Agricultural Marketing Act of 1946.

2. Section 800.7 by deleting the term "regional office" and other minor superfluous wording for grammatical reasons and by substituting the term "agency" for "official agency". FGIS proposed to delete the term "regional office" because pursuant to a recent reorganization, FGIS no longer has regional offices. It further proposed to substitute the term "agency" for "official agency" to clarify that the regulation is applicable to delegated States as well as designated agencies. It was originally intended that delegated States would be subject to this provision. Strictly interpreted, the definition for official agency in § 800.0(b)(48) excludes delegated States. Agency is defined in § 800.0(b)(3) as a delegated State or a designated agency, as appropriate.

3. Section 800.8 by deleting all references to the Administrative Staff and replacing them with references to the Administrator or FGIS. FGIS proposed this action because pursuant to a recent reorganization, FGIS no longer has an Administrative Staff.

No changes to §§ 800.3, 800.4, 800.5, and 800.6 were proposed. FGIS received no comments to the proposed rule which allowed 60 days for public comment.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, and Grain.

PART 800—[AMENDED]

Accordingly, FGIS' regulations on "Administration" are amended as follows:

1. Section 800.2 is revised to read as follows:

§ 800.2 Administrator.

The Administrator is responsible for the administration of the Act and, pursuant to Section 3A of the Act, the delegated responsibilities under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). The Administrator is responsible for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of the Act and the Agricultural Marketing Act of 1946. The regulations promulgated under the Agricultural Marketing Act of 1946 appear at Part 68 of this title (7 CFR Part 68). The Administrator is authorized to take any action required by law or considered by him to be necessary and proper to the discharge of the functions and services under the Act and the Agricultural Marketing Act of 1946. The Administrator may delegate his authority to the Deputy Administrators, Division Directors, and other appropriate officers and employees. The Administrator may, in emergencies or other circumstances which would not impair the objectives of the Act, suspend for a period determined by the Administrator any provision of the regulations or official grain standards. The Administrator may authorize research; experimentation; and the testing of new procedures, equipment, and handling techniques to improve the inspection and weighing of grain. The Administrator may waive the official inspection and official weighing requirements pursuant to Section 5 of the Act.

2. Section 800.7 is revised to read as follows:

§ 800.7 Information about the Service, Act, and regulations.

Information about the Service, Act, regulations, official standards, official criteria, rules of practice, instructions, and other matters related to the official inspection or Class X or Class Y weighing of grain may be obtained by telephoning or writing the U.S. Department of Agriculture, Federal Grain Inspection Service, at 14th Street and Independence Avenue, SW., Washington, D.C. 20250, or any field office or agency.

3. Section 800.8 is revised to read as follows:

§ 800.8 Public information.

(a) *General.* This section is issued in accordance with §§ 1.1—1.16 of the regulations of the Secretary of Agriculture in Part 1, Subpart A, of Subtitle A of Title 7 (7 CFR 1.1—1.16), and Appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this section, govern the availability of records of the Service to the public.

(b) *Public inspection and copying.* Materials maintained by the Service, including those described in 7 CFR 1.2(a), will be made available, upon a request which has not been denied, for public inspection and copying at the U.S. Department of Agriculture, Federal Grain Inspection Service, at 14th Street and Independence Avenue, SW., Washington, D.C. 20250. The public may request access to these materials during regular working hours, 8:00 a.m.—4:30 p.m. Monday through Friday except for holidays.

(c) *Indexes.* FGIS shall maintain an index of all material required to be made available in 7 CFR 1.2(a). Copies of these indexes will be maintained at the location given in paragraph (b) of this section. Notice is hereby given that quarterly publication of these indexes is unnecessary and impracticable, because the material is voluminous and does not change often enough to justify the expense of quarterly publication. However, upon specific request, copies of any index will be provided at a cost not to exceed the direct cost of duplication.

(d) *Requests for records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a)

and shall be addressed as follows: Office of the Administrator, Federal Grain Inspection Service, FOIA Request, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C. 20250.

(e) *Appeals.* Any person whose request, under paragraph (d) of this section, is denied shall have the right to appeal such denial in accordance with 7 CFR 1.3(e). Appeals shall be addressed to the Administrator, Federal Grain Inspection Service, FOIA Appeal, U.S. Department of Agriculture, Washington, D.C. 20250.

Authority: Secs. 5, 18, Pub. L. 94-582, 90 Stat. 2869, 2884; (7 U.S.C. 76, 87e)

Dated: December 15, 1983.

Kenneth A. Gilles,

Administrator.

[FR Doc. 83-34728 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 444]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 220,000 cartons during the period January 1–January 7, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291, and has been designated a "non-major" rule. 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.

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

This action is consistent with the marketing policy currently in effect. The committee met publicly on December 27, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is steady.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.744 is added as follows:

§ 910.744 Lemon Regulation 444.

The quantity of lemons grown in California and Arizona which may be handled during the period January 1, 1984, through January 7, 1984, is established at 220,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 29, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-34844 Filed 12-29-83; 11:15 am]

BILLING CODE 3410-02-M

7 CFR Part 1097

[Docket No. AO-219-A38]

Milk in the Memphis, Tennessee, Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changes the location adjustment provisions of the Memphis order to limit to 9 cents the reduction to the Class I and uniform prices for plant location for milk received at plants located in the State of Tennessee and 50 or more miles from the city hall in Memphis. The action is based on industry proposals which were considered at a public hearing held November 15, 1983, in Nashville, Tennessee. The change is necessary to reflect current marketing conditions and to insure orderly marketing of milk in the Memphis, Tennessee marketing area.

EFFECTIVE DATE: December 30, 1983.

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

Prior documents in this proceeding:

Notice of Hearing: Issued September 23, 1983; published September 30, 1983 (48 FR 44841).

Partial Decision: Issued December 23, 1983; Published December 29, 1983.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Memphis, Tennessee, order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Memphis, Tennessee, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than the date of its publication in the **Federal Register.** Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Deputy Assistant Secretary containing all amendment provisions of this order was issued December 23, 1983. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the **Federal Register,** and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.** (Section 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1097

Milk Marketing Order, Milk, Dairy Products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Memphis, Tennessee, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1097—MILK IN THE MEMPHIS, TENNESSEE, MARKETING AREA

§ 1097.52 [Amended]

In § 1097.52, the table contained in this section is revised to reads as follows:

Location of plant	Rate per hundredweight
In the State of Tennessee and 50 miles or more from the city hall in Memphis.	Subtract 9 cents.
In the State of Mississippi and 50 but less than 60 miles from the city hall in Memphis.	Add 9 cents.
For each additional 10 miles in excess of 50 miles.	Add an additional 1.5 cents.
Outside the States of Tennessee and Mississippi and 50 but less than 60 miles from the city hall in Memphis.	Subtract 9 cents.
For each additional 10 miles in excess of 50 miles.	Subtract an additional 1.5 cents.

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

Effective date: December 30, 1983.

Signed at Washington, D.C., On: December 28, 1983.

Karen Darling,

Deputy Assistant Secretary For Marketing & Inspection Services.

[FR Doc. 83-34843 Filed 12-29-83; 8:53 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1772

Telephone Standards and Specifications

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Rural Electrification Administration (REA) regulations by adding a section that lists and identifies the REA telephone program Bulletins containing the construction standards and specifications for materials and equipment that have been approved for incorporation by reference by the Director of the Office of the **Federal Register.** This rule is intended to provide REA borrowers and the public with a comprehensive list of the telephone standards and specifications that are incorporated by reference. This rule also contains the final rules for REA Specification for Plastic-Insulated Ground Wire, REA Bulletin 345–85 (PE–85) and REA Specification for Terminating (TIP) Cable, REA Bulletin 345–87 (PE–87), in order for these Bulletins to be included in the list of telephone standards and specifications approved for incorporation by reference.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835–S, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8663.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936 (Act), as amended (7 U.S.C. 901 et seq.), the Rural Electrification Administration (REA) is adding a Part to the REA regulations (7 CFR 1772) that lists and identifies the REA bulletins that contain telephone construction standards and specifications for materials and equipment that have been approved for incorporation by reference by the Director of the Office of the **Federal Register.** This final 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 (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. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees.

Background

The Rural Electrification Administration (REA) maintains a

system of Bulletins that contain construction standards and specifications for materials and equipment which are applicable to telephone system facilities constructed by REA telephone borrowers in accordance with the REA loan contract. These standards and specifications contain REA's requirements for specific construction units, material items and equipment units commonly used in REA telephone borrowers' systems. The REA Bulletins for the telephone program containing these standards and specifications are set forth in the "345 series" Bulletins.

REA proposed REA Bulletin 345–85, a new specification for plastic-insulated ground wire (PE–85), in the FR, Volume 47, No. 202, page 46523, October 19, 1982. There were no public comments received in response to the proposal. This document establishes uniform end product ground wire requirements that are consistent with ground wire manufactured and used currently in rural telephone systems. As a result of this action REA telephone borrowers will be able to purchase and install an improved quality ground wire, without an increase in wire cost. The wire manufactured under the new specification will provide better service performance which should reduce maintenance cost for the borrowers.

REA proposed a new specification for terminating cable REA Bulletin 345–87 (PE–87), in the FR, Volume 48, No. 104, pages 23827 and 23828, May 27, 1983. There were no public comments received in response to this proposal. The new specification, covering cable used primarily to connect the incoming outside plant cable to the mainframe in the telephone central office, sets the minimum standards for the mechanical and electrical parameters of the cable. This rule will provide the REA telephone borrowers with a good quality terminating cable without an increase in cable cost. The higher quality cable will provide better service to the subscriber and reduced maintenance cost for the borrowers.

These standards and specifications previously have been published by REA in Appendix A, to Part 1700 of the CFR. As a result, the Agency finds for good cause that further notice and public procedure at this time are impracticable, unnecessary, or contrary to the public interest.

List of Subjects in 7 CFR Part 1772

Loan Programs—Communications, Telecommunications, Telephone, Incorporation by reference.

In view of the above, Part 1772 is added to 7 CFR Chapter XVII to read as follows:

PART 1772—TELEPHONE STANDARDS AND SPECIFICATIONS

Sec.

1772.1—1772.96 [Reserved]

1772.97 Incorporation by Reference of Telephone Standards and Specifications.

Authority: 7 U.S.C. 901 et seq. and 7 U.S.C. 1921 et seq.

§§ 1772.1—1772.96 [Reserved]

1772.97 Incorporation by Reference of Telephone Standards and Specifications

The following telephone Bulletins have been approved for incorporation by reference by the Director of the Office of the Federal Register on December 30, 1983. Bulletin 345–150 (Form 515a) containing the specifications and drawings for construction of buried cables and wires may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The remaining Bulletins containing construction standards and specifications for materials and equipment may be obtained from the Rural Electrification Administration, Administrative Services Division, Room 0175–S, Washington, D.C. 20250.

The bulletins are available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.**

REA Bulletin No.	Specification No.	Date last issued	Title of standard or specification
345–4	PE–16	Jan. 1972	REA specification for wood crossarms (solid and laminated). Transmission timbers and pole keys.
345–6	PC–2	Jan. 1978	REA standard for splicing plastic-insulated cables.
345–13	PE–22	Jan. 1983	REA specification for aerial and underground telephone cable.
345–18	PE–20	Aug. 1974	REA specification for plastic-insulated, plastic-jacketed station wire.
345–22	PE–26	Oct. 1978	REA specification for voice frequency loading coils.
345–27	PE–31	Feb. 1974	REA specification for D–66/H–88 junction impedance compensators.
345–29	PE–38	Feb. 1962	REA specification for self-supporting cable.
345–30	PE–40	Feb. 1971	REA specification for ringing generator equipment.
345–46	PE–48	July 1968	REA specification for support clamps for use with figure 8 distribution wire and figure 8 cable.
345–50	PE–60	Sept. 1979	REA specification for trunk carrier systems.
345–52	PC–5A	Jan. 1980	REA standard for service entrance and station protector installations.
	PC–5B	April 1981	REA standard for station installations.
345–53	PE–70	Mar. 1971	REA specification for encapsulation, splice closure, and pressure blocks.
345–54	PE–52	Dec. 1971	REA specification for telephone cable splicing connectors.
345–55	PE–61	Dec. 1973	REA specification for central office loop extenders and loop extender voice frequency repeater combinations.
345–59	PE–71	Mar. 1971	REA specification for inside wiring cable.
345–61	PE–72	Mar. 1971	REA specification for switchboard cable.
345–63	PC–4	May 1976	REA standard for acceptance tests and measurements of telephone plant.
345–65	PE–33	June 1978	REA specification for cable shield bonding connectors.
345–66	PE–64	Sept. 1979	REA specification for subscriber carrier systems.
345–67	PE–39	Nov. 1981	REA specification for filled telephone cables.
345–69	PE–29	Jan. 1978	REA specification for two-wire voice frequency repeater equipment.
345–72	PE–74	Jan. 1976	REA specification for filled splice cases.
345–75	PE–65	Jan. 1977	REA specification for electronic trunk circuits.
345–78	PE–78	Feb. 1980	REA specification for carbon arrester assemblies for use in protectors.
345–80	PE–75	July 1978	REA specification for flat oval telephone cords.
345–82	PE–82	June 1980	REA specification for wood telephone pedestal stubs.
345–86	PE–86	Oct. 1982	REA specification for filled buried service wire.
345–87	PE–87	Dec. 1983	REA specification for terminating (TIP) cable.
345–89	PE–89	Feb. 1982	REA specification for filled telephone cable with expanded insulation.
345–150	Form 515a	Sept. 1979	REA specifications and drawings for construction of direct buried plant.
345–151	Form 515c	Sept. 1979	REA specifications and drawings for conduit and manhole construction.
345–152	Form 515d	Sept. 1979	REA specifications and drawings for underground cable installation.

REA Bulletin No.	Specification No.	Date last issued	Title of standard or specification
345-153	Form 515f	Sept. 1979	REA specifications and drawings for construction of pole lines, aerial cables and wires.
345-154	Form 515g	Sept. 1979	REA specifications and drawings for service entrance and station protector installations.
345-165	Form 522	June 1978	REA general specification for digital, stored program controlled central office equipment.
345-166	Form 524	Jan. 1976	REA general specification for common control central office equipment.
345-168	Form 538	Oct. 1977	REA specification for equipment for direct distance dialing.
345-169	Form 558	Sept. 1966	REA specification for dial central office equipment.
345-180	Form 397a	Jan. 1963	REA specifications for voice frequency repeaters and voice frequency repeatered trunks.
345-183	Form 397d	June 1970	REA design specifications for point-to-point microwave radio systems.
345-184	Form 397e	May 1971	REA design specifications for mobile and fixed dial radio telephone equipment.

Dated: December 19, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-34796 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Parts 2, 3, 11, 50, 51, 73, 76, 78, 85, 91, 92, 94, 95, 96, 102, 103, 104, 112, 113, 114, 116, 122, 145, 147, 151, 156, 161, and 166

[Docket No. 83-093]

OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends 9 CFR Chapter I by adding OMB control numbers assigned to collections of information in regulations administered by Veterinary Services. This document also revises those OMB control number citations which were previously included in 9 CFR Chapter I. This action is taken to comply with the Paperwork Reduction Act and OMB regulations.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Nicholas E. Bedessem, Regulatory Coordination Specialist, RCS, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5533.

SUPPLEMENTARY INFORMATION:

List of Subjects in 9 CFR Parts 2, 3, 11, 50, 51, 73, 76, 78, 85, 91, 92, 94, 95, 96, 102, 103, 104, 112, 113, 114, 116, 122, 145, 147, 151, 156, 161, and 166

Reporting and recordkeeping requirements, Paperwork requirements.

Accordingly, Chapter I, Animal and Plant Health Inspection Service, USDA, Title 9, Animals and Animal Products of the Code of Federal Regulations is amended as follows:

Subchapter A—Animal Welfare

PART 2—REGULATIONS

§§ 2.1, 2.7, 2.25, 2.26, 2.28 [Amended]

(1) Sections 2.1, 2.7, 2.25, 2.26 and 2.28 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0036)"

§ 2.75 [Amended]

(2) Section 2.75 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control numbers 0579-0028, 0579-0037, 0579-0038 and 0579-0068)"

§§ 2.76-2.78 [Amended]

(3) Sections 2.76, 2.77, and 2.78 are amended by revising the OMB control number citation at the end of each of these sections to read as follows: "(Approved by the Office of Management and Budget under control numbers 0579-0028, 0579-0037, 0579-0038, and 0579-0068)"

§§ 2.79-2.81, 2.126 [Amended]

(4) Sections 2.79, 2.80, 2.81, and 2.126 are amended by revising the OMB control number citation at the end of each of these sections to read as follows: "(Approved by the Office of Management and Budget under control numbers 0579-0028, 0579-0037, 0579-0038, and 0579-0068)"

PART 3—STANDARDS

§ 3.100 [Amended]

(5) Section 3.100 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0036)"

PART 11—HORSE PROTECTION REGULATIONS

§§ 11.7, 11.20 [Amended]

(6) Sections 11.7 and 11.20 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0056)"

§ 11.21 [Amended]

(7) Section 11.21 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control numbers 0579-0056 and 0579-0058)"

§§ 11.24, 11.40, 11.41 [Amended]

(8) Sections 11.24, 11.40, and 11.41 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0056)"

PART 50—CATTLE DESTROYED BECAUSE OF TUBERCULOSIS

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF LIVESTOCK OR POULTRY DISEASES

§ 50.11 [Amended]

(9) Section 50.11 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0001)"

PART 51—CATTLE DESTROYED BECAUSE OF BRUCELLOSIS

§ 51.1 [Amended]

(10) Section 51.1 is amended by removing the editorial note at the end of the section.

§ 51.3 [Amended]

(11) Section 51.3 is amended by removing the editorial note at the end of the section and adding the following: "(Approved by the Office of Management and Budget under control number 0579-0067)"

§ 51.4 [Amended]

(12) Section 51.4 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0067)"

§§ 51.5-51.7 [Amended]

(13) Sections 51.5, 51.6, and 51.7 are amended by removing the editorial note at the end of each of these sections and adding the following: "(Approved by the Office of Management and Budget under control number 0579-0067)"

§ 51.8 [Amended]

(14) Section 51.8 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0067)"

§ 51.9 [Amended]

(15) Section 51.9 is amended by removing the editorial note at the end of the section and adding the following: "(Approved by the Office of Management and Budget under control number 0579-0067)"

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

§ 73.5 [Amended]

(16) Section 73.5 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0051)"

§ 73.7 [Amended]

(17) Section 73.7 is amended by revising the OMB control number citation to read as follows: "(Approved by the Office of Management and Budget under control number 0579-0051)"

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

§ 76.18 [Amended]

(18) Section 76.18 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0016)"

PART 78—BRUCELLOSIS

§ 78.8 [Amended]

(19) Section 78.8 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0064)"

PART 85—PSEUDORABIES

§§ 85.1, 85.5-85.7, 85.10 [Amended]

(20) Sections 85.1, 85.5, 85.6, 85.7, and 85.10 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0069)"

§ 85.11 [Amended]

(21) Section 85.11 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0070)"

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

§§ 91.3, 91.5, 91.6 [Amended]

(22) Sections 91.3, 91.5, and 91.6 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0069)"

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

§ 92.2 [Amended]

(23) Section 92.2 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0069)"

§ 92.4 [Amended]

(24) Section 92.4 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control numbers 0579-0040 and 0579-0060)"

§ 92.7 [Amended]

(25) Section 92.7 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0040)"

§ 92.11 [Amended]

(26) Section 92.11 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control numbers 0579-0040 and 0579-0060)"

§ 92.31 [Amended]

(27) Section 92.31 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0040)"

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

§§ 94.1, 94.5, 94.6, 94.9, 94.11-94.13, 94.16 [Amended]

(28) Sections 94.1, 94.5, 94.6, 94.9, 94.11, 94.12, 94.13, and 94.16 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0015)"

PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW, OFFERED FOR ENTRY INTO THE UNITED STATES

§§ 95.5, 95.7, 95.9, 95.25 [Amended]

(29) Sections 95.5, 95.7, 95.9 and 95.25 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579-0015)"

PART 96—RESTRICTION OF IMPORTATIONS OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO THE UNITED STATES

§ 96.1 [Amended]

(30) Section 96.1 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579-0015)"

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

§§ 102.3-102.5 [Amended]

(31) Sections 102.3, 102.4 and 102.5 are amended by adding at the end of each of these sections the following: "(Approved

by the Office of Management and Budget under control number 0579–0013)"

PART 103—EXPERIMENTAL PRODUCTION, DISTRIBUTION, AND EVALUATION OF BIOLOGICAL PRODUCTS PRIOR TO LICENSING

§ 103.1 [Amended]

(32) Section 103.1 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0013)"

§ 103.2 [Amended]

(33) Section 103.2 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control number 0579–0059)"

PART 104—PERMITS FOR BIOLOGICAL PRODUCTS

§§ 104.3–104.6 [Amended]

(34) Sections 104.3, 104.4, 104.5, and 104.6 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579–0013)"

PART 112—PACKAGING AND LABELING

§§ 112.2, 112.5 [Amended]

(35) Sections 112.2 and 112.5 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579–0013)"

PART 113—STANDARD REQUIREMENTS

§ 113.3 [Amended]

(36) Section 113.3 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0013)"

§ 113.5 [Amended]

(37) Section 113.5 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control number 0579–0059)"

§ 113.250 [Amended]

(38) Section 113.250 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0013)"

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

§ 114.5 [Amended]

(39) Section 114.5 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control number 0579–0059)"

§§ 114.7–114.9 [Amended]

(40) Sections 114.7, 114.8 and 114.9 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579–0013)"

PART 116—RECORDS

§§ 116.1–116.6, 116.8 [Amended]

(41) Sections 116.1, 116.2, 116.3, 116.4, 116.5, 116.6, and 116.8 are amended by revising the OMB control number citation at the end of each of these sections to read as follows: "(Approved by the Office of Management and Budget under control number 0579–0059)"

§ 116.7 [Amended]

(42) Section 116.7 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0013)"

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS AND ANALOGOUS PRODUCTS: ORGANISMS AND VECTORS,

PART 122—ORGANISMS AND VECTORS

§ 122.2 [Amended]

(43) Section 122. 2 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0013)"

§ 122.3 [Amended]

(44) Section 122.3 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0015)"

SUBCHAPTER F—POULTRY IMPROVEMENT

PART 145—NATIONAL POULTRY IMPROVEMENT PROGRAM

§ 145.2 [Amended]

(45) Section 145.2 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control number 0579–0007)"

§ 145.3 [Amended]

(46) Section 145.3 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0007)"

§ 145.4 [Amended]

(47) Section 145.4 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control number 0579–0057)"

§§ 145.14, 145.23, 145.33, 145.43, 145.44, 145.53 [Amended]

(48) Sections 145.14, 145.23, 145.33, 145.43, 145.44, and 145.53 are amended by adding at the end of each of these sections the following: read as follows: "(Approved by the Office of Management and Budget under control number 0579–0007)"

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

§ 147.26 [Amended]

(49) Section 147.26 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0007)"

SUBCHAPTER G—ANIMAL BREEDS

§ 151.3 [Amended]

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

(50) Section 151.3 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0011)"

SUBCHAPTER H—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

PART 156—INSPECTION AND CERTIFICATION OF ANIMAL BYPRODUCTS

§ 156.4 [Amended]

(51) Section 156.4 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0008)"

SUBCHAPTER I—ACCREDITATION OF VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

§ 161.1 [Amended]

(52) Section 161.1 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0032)"

SUBCHAPTER K—SWINE HEALTH PROTECTION

PART 166—SWINE HEALTH PROTECTION

§ 166.9 [Amended]

(53) Section 166.9 is amended by adding at the end of the section the following: "(Approved by the Office of Management and Budget under control number 0579–0066)"

§§ 166.10, 166.12 [Amended]

(54) Section 166.10 and 166.12 are amended by adding at the end of each of these sections the following: "(Approved by the Office of Management and Budget under control number 0579–0065)"

(44 U.S.C. 35)

Done at Washington, D.C. this 28th day of December, 1983.

William E. Ketter,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-34784 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 81

[Docket No. 83-147]

Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Highly Pathogenic Avian Influenza" interim rule by expanding the quarantined area in Pennsylvania. In particular, this document adds to the quarantined area in Pennsylvania all of Adams County and portions of Berks, Chester, Cumberland, Franklin, and York Counties (with this change all of York County is included within the quarantined area). The effect of this action is to regulate the interstate movement of live poultry and certain other items from the areas added to the quarantined area. This action is necessary to help prevent the interstate spread of highly pathogenic avian influenza, a highly contagious and pathogenic viral disease of poultry.

DATES: Effective date is December 27, 1983. Written comments must be received on or before February 28, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. In order to help prevent the spread of highly pathogenic avian influenza, immediate action is warranted to regulate the movement of live poultry and certain other items.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register.**

Background

The "Highly Pathogenic Avian Influenza" interim rule, among other things, established a quarantine and regulations in 9 CFR Part 81 for the purpose of regulating the interstate movement of live poultry and certain other items from quarantined areas in Pennsylvania and New Jersey because of highly pathogenic avian influenza (48 FR 51422–51423, 52420–52427, 52885–52887, 53678–53679, 53679–53681, 53997, 54574–54575, 55402–55405, 55722). This document expands the quarantined area in Pennsylvania.

Highly Pathogenic Avian Influenza

Highly pathogenic avian influenza is a highly contagious and pathogenic viral disease of poultry. It is defined as a disease of poultry caused by any influenza virus Type A that results in not less than 75 percent mortality within 8 days in at least eight healthy susceptible chickens, 4 to 8 weeks old, inoculated by the intramuscular, intravenous, or caudal airsac route with bacteria-free infectious allantoic or cell culture fluids and using standard laboratory operating procedures to assure specificity. Clinical evidence of the disease includes decreased feed and water consumption, depression, unusual movements or positions, increased mortality, hemorrhage beneath the skin on the lower legs and feet, severe decrease in egg production, post mortem lesions, and history of the disease occurrence in the flock.

Expansion of Quarantined Area in Pennsylvania

Prior to the effective date of this document, the quarantined area in Pennsylvania included all of Lancaster County, and portions of Berks, Chester, Cumberland, Dauphin, Lebanon, and York Counties.

It has been determined, based on clinical evidence and laboratory tests at the National Veterinary Services Laboratory, Ames, Iowa, that highly pathogenic avian influenza has spread within Pennsylvania to an area in York County outside of the previously quarantined area. Further, based on clinical evidence it has been determined that highly pathogenic avian influenza has spread within previously quarantined areas in Lancaster and Chester Counties in Pennsylvania.

The Department has determined that it is necessary that a quarantined area have easily understood boundary lines, include the premises where highly pathogenic avian influenza is found, and include at least a five mile buffer zone in every direction from premises where the disease is found. Also, if the boundary line under the above criteria would be contiguous to areas containing high concentrations of poultry, it has been determined that it is necessary that the quarantined area include the contiguous areas containing high concentrations of poultry. Further, if the boundary line under the above criteria would encompass and be contiguous to large areas in which there is no poultry production, it has been determined that the quarantined area should be adjusted to exclude any such areas.

Under the circumstances and criteria explained above, it is necessary in order to prevent the spread of highly pathogenic avian influenza to expand the quarantined area in Pennsylvania to quarantine all of Adams County, and portions of Berks, Chester, Cumberland, Franklin, and York Counties (with this change all of York County is included within the quarantined area). Accordingly, the quarantined area in Pennsylvania is redescribed as follows:

The following area in Adams, Berks, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, and York Counties of Pennsylvania is designated as a quarantined area: That portion of Pennsylvania beginning at the intersection of Interstate Highway 81 with the Pennsylvania-Maryland State Line; then northeasterly along Interstate Highway 81 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with Interstate Highway 81.

Effect of Designation as a Quarantined Area

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs or other accessories that have been used in the handling of poultry or poultry eggs.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512-1 with respect to this interim rule. In order to help prevent the spread of highly pathogenic avian influenza, immediate action is warranted to regulate the movement of live poultry and certain other items.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

Under the circumstances referred to above, 9 CFR Part 81 is amended as follows:

PART 81—HIGHLY PATHOGENIC AVIAN INFLUENZA

Paragraph (b) in § 81.4 is revised to read as follows:

§ 81.4 Quarantined areas.

* * * * *

(b) The following area in Adams, Berks, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, and York Counties of Pennsylvania is designated as a quarantined area: That portion of Pennsylvania beginning at the intersection of Interstate Highway 81 with the Pennsylvania-Maryland State Line; then northeasterly along Interstate Highway 81 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with Interstate Highway 81.

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C. this 27th day of December, 1983.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83-34745 Filed 12-28-83; 11:30 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 83-029I]

Imported Products; Restoration of Czechoslovakia to the List of Countries Eligible for Importation of Meat Food Products into the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule.

SUMMARY: This document relists the country of Czechoslovakia as eligible for importation of meat food products into the United States under the Federal Meat Inspection Act (FMIA). The FMIA requires that, in order for a country to be eligible to export meat products from cattle, sheep, swine, and goats to the United States, the meat inspection system of the country must comply with requirements "at least equal to" requirements of the FMIA and regulations applied to official establishments in the United States, and assure that reliance can be placed upon certificates, required under the regulation, from authorities of that foreign country.

Czechoslovakia lost its eligibility to export meat products to the United States in April 1983 as a result of polychlorinated biphenyl (PCB) residue violations in exported pork product. The Czechoslovakian Government subsequently took steps to locate the source of the problem and implemented controls to prevent the export of product containing PCB above the permitted tolerance. The investigation by the Czechoslovakian Government included extensive testing of livestock, meat products, export plant facilities, and animal feed ingredients. Because no single source of PCB was found, the Government of Czechoslovakia will ban the production of PCB in 1984, and intensive testing of product before export will be implemented. The Czechoslovakian Government has demonstrated that this comprehensive testing and sampling program will prevent further PCB residue violations in meat products. The Czechoslovakian

Government has also demonstrated that sufficient controls are now in place to assure compliance with FMIA provisions regarding imported product.

EFFECTIVE DATE: Interim final rule effective December 30, 1983; comments must be received on or before January 30, 1984.

ADDRESS: Written comments to: Regulations Office, Attn.: Annie Johnson, FSIS Hearing Clerk, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, DC 20250. (See also "Comments" under "Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. Grace Clark, Director, Foreign Programs Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6971.

SUPPLEMENTARY INFORMATION:

Comments

Written comments concerning this interim rule must be sent in duplicate to the Regulations Office and should bear a reference to the docket number located in the heading of this document. Comments submitted pursuant to this interim rule will be made available for public inspection in the Regulations Office at the above address between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Executive Order 12211

The Food Safety and Inspection Service has determined that this interim final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effects on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this interim rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-345 (5 U.S.C. 601) since there is currently only one domestic importer of Czechoslovakian meat products.

Background

Pursuant to the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary of Agriculture is responsible for administering the programs which are designed to ensure that products distributed to consumers are wholesome, not adulterated, and properly marked, labeled, and packaged. The Federal meat inspection regulations implementing the FMIA requirements with respect to imported products are codified at 9 CFR Part 327. These regulations authorize the Administrator of the Food Safety and Inspection Service (FSIS) to withdraw a foreign country's eligibility to export meat products to the United States:

> * * * whenever it shall be determined by the Administrator that the system of meat inspection maintained by such foreign country does not assure compliance with requirements at least equal to all the inspection, building construction standards, and other requirements of the Act * * *; or that reliance cannot be placed upon certificates required under this part from authorities of such foreign countries * * * (9 CFR 327.2(a)(4)).

Detectible levels of PCBs were found in Czechoslovakian product every year since 1980. Two shipments of pork product presented for import inspection in March 1983 and certified by Czechoslovakian officials as meeting U.S. requirements were found to contain amounts of PCBs that were in violation of tolerance levels established by the Food and Drug Administration and enforced by FSIS. Under the FMIA, product that contains residue levels above established limits is considered adulterated and must be condemned for human food purposes. Since the Czechoslovakian Government was not able to determine the source of the contamination and continued to export product containing PCB residues to the United States, FSIS, on April 29, 1983, withdrew Czechoslovakia from the list of countries eligible to export product from cattle, sheep, swine, and goats to the United States.

Since that time, officials of the Czechoslovakian Government have conducted an intensive investigation to determine the source of the PCB contamination problem. First, they reviewed their analytical methods for PCB and visited laboratories in other countries, including a USDA, FSIS laboratory. Modifications in the analytical procedure were made, and findings obtained on test samples supplied by FSIS indicate their method now produces equivalent results.

Next, officials of the Czechoslovakian Government examined the plant facilities, and conducted extensive tests on livestock feed ingredients, hogs on different farms, and pork products. From an analysis of their data, they have concluded that there is no single source of PCB. Therefore, they have prepared legislation to ban the production of PCB in Czechoslovakia in 1984.

Tight controls have been placed on feeds used on farms raising animals for export products. All imported and domestic feed ingredients are being tested, and only those free of PCB will be used. All feed is being held until test results are available. To assure further that high levels of PCB are eliminated from export product, a program of extensive testing of each lot of animals was initiated, and at the request of FSIS, the Czechoslovakian Government operated this comprehensive testing program for a 30-day period. During a recent trip to Czechoslovakia, FSIS representatives reviewed both the data and the new controls implemented by the Government. FSIS has determined that the Czechoslovakian Government has sufficient inspection controls and adequate laboratory capability to prevent the export of products containing PCB above the permitted tolerance. As an added assurance, the Agency plans to intensify testing of incoming Czechoslovakian meat products when shipments from that country to the United States are resumed.

The Administrator, Food Safety and Inspection Service, has determined that immediate implementation of this rule, on an interim basis, is appropriate since the Czechoslovakian meat inspection system is now in compliance with the FMIA's "at least equal to" requirement for foreign inspection systems.

List of Subjects in 9 CFR Part 327

Meat inspection, Imported products.

Part 327—[Amended]

1. The authority citation for Part 327 is as follows:

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

§ 327.2 [Amended]

2. Section 327.2(b) of the Federal meat inspection regulations (9 CFR 327.2(b)) is amended by adding Czechoslovakia in alphabetical order to the list of countries eligible to export product into the United States.

Done at Washington, DC, on December 20, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-34727 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants; Summer 1982 Addenda; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects the authority citation for the final rule, Codes and Standards for Nuclear Power, Plants, Summer 1982 Addenda, published in the **Federal Register** on November 4, 1983.

FOR FURTHER INFORMATION CONTACT: John Philips, Rules and Procedures Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7086.

SUPPLEMENTARY INFORMATION: The authority citation for 10 CFR Part 50 published on page 50879 on November 4, 1983, is corrected to read as follows:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2952 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50-78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Dated at Bethesda, Maryland, this 23rd day of December 1983.

For the Nuclear regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-34654 Filed 12-29-83; 8:45 am]

BILLING CODE 7590-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Revision to Statement of Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is revising its Statement of Organization and Functions to reflect changes in Regional Office addresses and areas of geographical responsibility.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: This rule revises 16 CFR 1000.4 to reflect changes in room numbers of the Commission's Midwestern and Western Regional Offices, and to reflect reassignment of responsibility for the State of Nebraska from the Southwestern to the Western Regional Office.

Since this rule relates solely to internal agency organization and management, the Administrative Procedure Act (APA) (5 U.S.C. 553) does not require the Commission to apply the notice and comment provision of the APA.

Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612, and thus is exempt from the provision of that Act.

List of Subjects in 16 CFR Part 1000

Organization and functions (Government agencies).

PART 1000—[AMENDED]

Accordingly, Part 1000 of Title 16 of the Code of Federal Regulations is amended as shown.

1. The authority citation for Part 1000 reads as follows:

Authority: 5 U.S.C. 552(a).

2. In § 1000.4, paragraph (d) (2), (3) and (5) are revised to read as follows:

§ 1000.4 Commission addresses.

* * * * *

(d) * * *

(2) Midwestern Regional Office, 230 South Dearborn St., Room 2944, Chicago, Illinois 60604; Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

(3) Southwestern Regional Office, 1100 Commerce St., Room 1 C10, Dallas, Texas 75242; Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

* * * * *

(5) Western Regional Office, U.S. Customs House, 555 Battery St., Room 415, San Francisco, California 94111; Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

Dated: December 27, 1983.

Sheldon D. Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 83-34680 Filed 12-29-83; 8:45 am]

BILLING CODE 6355-01-M

16 CFR Part 1033

Display of Control Numbers for Collection of Information Requirements in Rules Under the Paperwork Reduction Act

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission issues a rule to list all control numbers assigned by the Office of Management and Budget (OMB) to collection of information requirements contained in standards, regulations, and rules enforced by the Commission. The Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *(et seq.)* provides that any activity of an administrative agency involving the "collection of information" is subject to review and approval by OMB. A "collection of information" may take the form of requirements in a standard regulation, or rule for the compilation and maintenance of records. When OMB approves a collection of information, it assigns a control number for that particular activity. The Paperwork Reduction Act provides at 44 U.S.C. 350(f) that the OMB control number must be displayed by the agency before it engages in a collection of information. Implementing rules issued by OMB provide at 5 CFR 1320.7(f)(2) that in the case of collection of information requirements contained in rules, control numbers shall be displayed by publication in the **Federal**

Register and in the Code of Federal Regulations.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Sheldon D. Butts (202) 492–6800.

SUPPLEMENTARY INFORMATION: The Commission enforces many standards, regulations, and rules which contain collection of information requirements. To comply with provisions in the OMB regulations for display of control numbers assigned to collection of information requirements contained in rules by publication in the **Federal Register** and Code of Federal Regulations, the Commission issues the following document to list such rules with their assigned control numbers.

The rule issued below is a rule of agency organization which is exempt from requirements for publication of a notice of proposed rulemaking and opportunity for public comment by provisions of the Administrative Procedure Act of 5 U.S.C. 553(b)(A). Because the rule issued below contains no substantive requirements, provisions of the Administrative Procedure Act requiring publication of a final rule at least 30 days before its effective date are not applicable. Therefore, the rule issued below shall become effective on December 30, 1983 or for further information contact: Sheldon D. Butts (202) 492–6800.

List of Subjects in 16 CFR Part 1033

Administrative practice and procedure, Reporting and recordkeeping requirements.

Therefore, in accordance with provisions of the Paperwork Reduction Act (44 U.S.C. 3507(f) and the Administrative Procedure Act (5 U.S.C. 553), the Commission hereby amends Title 16 of the Code of Federal Regulations, Chapter II, by adding a new Part 1033 as follows:

PART 1033—DISPLAY OF CONTROL NUMBERS FOR COLLECTION OF INFORMATION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

Sec.
1033.1 Purpose.
1033.2 Display of control numbers.

Authority: 44 U.S.C. 3507(f), 5 U.S.C. 553.

§ 1033.1 Purpose.

The purpose of this Part 1033 is to display all control numbers assigned by the Office of Management and Budget (OMB) to collection of information requirements contained in rules enforced by the Consumer Product Safety Commission. Display of OMB control numbers is required by provisions of the Paperwork Reduction Act at 44 U.S.C. 3507(f) and by regulations issued by OMB to implement that act at 5 CFR 1320.7(f)(2), 1320.12(d), 1320.13(j), and 1320.14(e).

§ 1033.2 Display of control numbers.

The following rules enforced by the Consumer Product Safety Commission containing collection of information requirements are listed with the control numbers assigned by the Office of Management and Budget:

Part or section of Title 16 Code of Federal Regulations	Currently assigned OMB control No.
Part 1019	3041–0003
Part 1204	3041–0006
Part 1207	3041–0023
Part 1209	3041–0022
Part 1212	3041–0021
§ 1500.86(a)(4)	3041–0019
§ 1508.10	3041–0013
§ 1509.12	3041–0012
Parts 1610 and 1611	3041–0024
Parts 1615 and 1616	3041–0027
Parts 1630 and 1631	3041–0017
Parts 1632	3041–0014

Dated: December 23, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-34555 Filed 12-29-83; 8:45 am]

BILLING CODE 6355-01-M

16 CFR Part 1306

Ban of Urea-Formaldehyde Foam Insulation; Removal

AGENCY: Consumer Product Safety Commission.

ACTION: Removal.

SUMMARY: The Commission's previously issued ban of urea-formaldehyde foam insulation (UFFI) was set aside on judicial review. Since the regulation is no longer in effect, this document removes it from the CFR.

FOR FURTHER INFORMATION CONTACT: Andrew Ulsamer, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492–6994.

Harleigh Ewell, Office of the General Counsel, Washington, D.C. 20207, phone (301) 492–6980.

DATES: This action is effective December 30, 1983.

SUPPLEMENTARY INFORMATION: Many health complaints, including irritation of the eyes, nose, throat and skin, headaches and shortness of breath have been made by consumers who have had urea-formaldehyde foam insulation (UFFI) in their homes. Less frequently reported symptoms include chest pain, diarrhea, nausea, fatigue and sleep disturbance. In addition to these effects, CPSC is concerned about the potential chronic effects of formaldehyde gas released from UFFI, such as allergic reactions and cancer. In studies conducted by the Chemical Industry Institute of Toxicology and the New York University School of Medicine, formaldehyde was shown to cause cancer in laboratory animals. Based on the results of these tests and other available data, the CPSC considers formaldehyde to be a potential human carcinogen.[1]

Following a series of regional hearings, several days of public hearings in Washington, and several years of staff investigation, the Commission issued a ban of UFFI based on both the acute and chronic effects (including cancer) caused by exposure to the formaldehyde gas that is given off by UFFI. The ban went into effect on August 10, 1982 (16 CFR Part 1306; 47 FR 14366; April 2, 1982).

After the ban was issued, several lawsuits were filed asking that the ban be set aside or modified. On April 7, 1983, the U.S. Court of Appeals for the Fifth Circuit issued an opinion setting the ban aside. (Slip opinion, *Gulf South Insulation et al. v. U.S. Consumer Product Safety Commission*, Nos. 82–4218, 82–4136, 82–4311, and 82–4135.) In its opinion, the court stated that the home measurement and laboratory test data used by the Commission to estimate the formaldehyde levels in UFFI homes, and the study conducted by the Chemical Industry Institute of Toxicology (CIIT), did not provide a sufficient basis for precisely estimating the risk of cancer caused by exposure to UFFI. The opinion also would require the Commission to quantify both the severity of the acute symptoms caused by exposure to UFFI and the number of persons affected. The court further stated that the ban should have been issued under the Federal Hazardous Substances Act rather than the Consumer Product Safety Act. (However, the decision should not be viewed as a declaration by the Court that UFFI is safe; in fact, the Court stated that "UFFI is not completely innocent" and "that taken as a whole, the complaints do identify a real problem.")

The Commission believes that the Fifth Circuit's opinion is based on a

[1] Commissioner Stuart M. Statler dissented (document available from the Office of the Secretary) from the agency's decision to ban urea formaldehyde foam insulation in February 1982.

number of factual and legal errors.[2] Therefore, the Commission filed a Petition for Rehearing of the court's decision. The petition points out that the CIIT study was confirmed by a study at New York University and counters criticisms of the CIIT procedure that were mentioned in the opinion. The petition also shows how the Commission's laboratory tests were valid and how the measurements of formaldehyde levels in homes were made in a group of homes that were, for practical purposes, equivalent to a randomly selected sample. In addition, the Commission contested the court's legal conclusions concerning quantifying acute symptoms and on use of the Consumer Product Safety Act.

On June 23, 1983, the court issued a second opinion that corrected a few of the factual errors in its previous opinion but that otherwise denied the Petition for Rehearing. (The corrected opinion is published at 701 F.2d 1137.) The Commission then requested the Solicitor General to seek a review by the Supreme Court of the Fifth Circuit decision. (The Solicitor General is the official in the Department of Justice who represents the United States in all cases in the Supreme Court and who decides independently which cases the government will ask the Supreme Court to hear.) On August 24, the Solicitor General announced that he would not ask the Supreme Court to hear the case. The Solicitor General's decision not to appeal takes into account a number of factors (including whether the court's holding affects other government agencies) and does not imply that the court's holding is correct. In announcing his decision, the Solicitor General stated, "my decision does not reflect any disagreement with the merits of the Commission's decision to ban urea-formaldehyde foam insulation from the American marketplace."

Now that the Commission's ban of UFFI has been set aside by a U.S. Court of Appeals, installation of UFFI may resume, except where state or local restrictions apply.

CPSC still considers purchasers of UFFI to be at risk of being exposed to elevated levels of formaldehyde. Such levels can pose a serious risk to health.

Therefore, the Commission has directed its staff to monitor UFFI sales now that the ban has been lifted and also to monitor consumer complaints to help determine if health problems continue to be reported in connection with UFFI installations.

The Commission also has authorized the creation of a Chronic Hazard Advisory Panel to consider the chronic hazards associated with exposure to formaldehyde gas given off by UFFI and other consumer products.

In addition, the Commission directed its staff to provide updated scientific information on the health effects of exposure to formaldehyde.

The Commission staff will review current data on complaints, health effects, and sales and will report to Commissioners in February, 1984. At that time, the Commission will determine if further action on UFFI is warranted.

Accordingly, since the regulation now published at 16 CFR Part 1306 is no longer in effect, the Commission hereby removes it from the CFR.

List of Subjects in 16 CFR Part 1306

Cancer, Condominiums, Consumer protection, Housing, Insulation, Nursing homes, Poison prevention.

Dated: December 22, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-34571 Filed 12-29-83; 8:45 am]

BILLING CODE 6355-01-M

[2] Neither Commissioner Statler nor Commissioner Terrence M. Scanlon (who became a member of the Commission subsequent to the agency ban of UFFI) agree with the rationale set forth in this notice concerning the agency's decision to seek a rehearing of the *Gulf South* case before the Court of Appeals for the Fifth Circuit. They opposed altogether the request to the Solicitor General of the U.S. to seek a petition for writ of certiorari in this matter before the U.S. Supreme Court. Copies of their opinions are available from the Office of the Secretary. Both Commissioners support the removal of the UFFI ban, published at 16 CFR Part 1306, as the ban obviously is no longer in effect, and they joined in the Commission's unanimous decision to monitor UFFI sales and consumer complaints; to establish a Chronic Hazard Advisory Panel concerning risks associated with exposure to formaldehyde gas; and to compile updated scientific information on the health effects of exposure to formaldehyde.

16 CFR Part 1700

Safety Packaging of Household Substances Amendment of Definition

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending the definition of household substances under its Poison Prevention Packaging Act regulations (PPPA) to eliminate the references to economic poisons (pesticides) in order to conform to the law which removed pesticides from Commission jurisdiction under the PPPA. Therefore, it is no longer valid to list economic poisons among substances subject to special packaging regulations of the Commission.

DATE: The revocation will become effective December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Beatrice Pitkin, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; phone (301) 492-6980.

SUPPLEMENTARY INFORMATION: When the Consumer Product Safety Act was enacted in 1972 the Commission was given jurisdiction over pesticides under the Poison Prevention Packaging Act of 1970, including functions under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C. 135 et seq.) relating to the administration and enforcement of the PPPA. However, the Federal Environmental Pesticide Control Act of 1972 (Pub. L. 92-516), enacted at about the same time, repealed the provisions in FIFRA relating to the enforcement of the PPPA. As a result, the Commission received the authority to issue child protection packaging standards for pesticides, but did not receive any authority to enforce such standards. Further, FIFRA, as amended by the 1972 Pesticide Control Act, authorizes the Environmental Protection Agency to adequately promulgate and enforce child protection packaging standards for pesticides.

To remove the anomaly of having authority to issue standards without authority to enforce them, the Consumer Product Safety Commission Improvements Act of 1976 amended the definition of household substance in section 2(2) of the PPPA (15 U.S.C. 1471(2)) by deleting the section on economic poisons (pesticides). Thus, the present action of the Commission deleting economic poisons from the definition of household substances at 16 CFR 1700.1(b)(2)(ii) is solely for the technical reason of making that section of the Commission's regulations conform to the law set forth in the Consumer Product Safety Commission Improvements Act of 1976.

Under the Administrative Procedure Act, the issuance or amendment of a rule must generally be preceded by a notice of proposed rulemaking and an opportunity for submission of written comments; a substantive rule is required to be published at least 30 days before its effective date. An exception exists for the notice and comment procedure when "the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that public procedure thereon are unnecessary or contrary to the public interest." 5 U.S.C. 553(b)(B). In this case, the Commission finds that notice and comment rulemaking

procedure is unnecessary because the basis of the present PPPA regulation—that economic poisons are subject to safety packaging under the PPPA—no longer exists. For this reason, the Commission also finds good cause to dispense with the 30-day delay in effective date provided at 5 U.S.C. 553(d) for publication of a substantive rule, particularly in light of the fact that this is a technical amendment designed to conform the regulation to the applicable law.

Therefore, pursuant to provisions of the Administrative Procedure Act, 5 U.S.C. 553, § 1700.1(b)(2)(ii) of Title 16, Chapter II, Subchapter C of the Code of Federal Regulations is revoked. To conform the numbering of this regulation to the order of listing at section 2(2) of the PPPA, upon removal of the reference to economic poison, the present designations of the two subsections following economic poisons—(iii) and (iv)-are changed to (ii) and (iii), respectively.

EFFECTIVE DATE: The revocation shall become effective December 30, 1983.

Authority: 5 U.S.C. 553; 15 U.S.C. 1471 et seq.)

List of Subjects in 16 CFR Part 1500

Consumer protection, Packaging and containers, Poison prevention.

PART 1700—[AMENDED]

§ 1700.1 [Amended]

Accordingly, 16 CFR 1700.1 is amended by removing paragraph (b)(2)(ii) and redesignating paragraphs (b)(2)(iii) and (iv) as paragraphs (b)(2)(ii) and (iii), respectively.

Dated: December 23, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-34553 Filed 12-29-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM 79-14]

Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426; (202) 357-8500.

SUPPLEMENTARY INFORMATION: Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of January 1984 is issued by the publication of a price table for the applicable month. See FERC Statutes and Regulations ¶ 24,764.

List of Subjects in 18 CFR Part 282

Natural gas.

Issued: December 23, 1983.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES—CALENDAR YEAR 1980

	January	February	March	April	May	June	July	August	September	October	November	December
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580

CALENDAR YEAR 1981

	January	February	March	April	May	June	July	August	September	October	November	December
Incremental Pricing Threshold	$1.891	$1.908	$1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA Section 102 Threshold	2.667	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130% of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990

CALENDAR YEAR 1982

	January	February	March	April	May	June	July	August	September	October	November	December
Incremental Pricing Threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.113	$2.120	$2.129	$2.139	$2.149	$2.159	$2.169
NGPA Section 102 Threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224	3.274	
NGPA Section 109 Threshold	2.128	2.143	2.158	2.173	2.160	2.187	2.194	2.204	2.214	2.224	2.234	2.244
130% of No. 2 Fuel Oil in New York City Threshold	9.180	9.340	9.470	9.340	9.280	8.000	8.170	8.670	8.660	8.950	8.640	8.890

CALENDAR YEAR 1983

	January	February	March	April	May	June	July	August	September	October	November	December
Incremental Pricing Threshold	$2.179	$2.187	$2.195	$2.203	$2.214	$2.225	$2.236	$2.245	$2.254	$2.263	$2.270	$2.277
NGPA Section 102 Threshold	2.399	3.321	3.344	3.367	3.394	3.421	3.448	3.472	3.496	3.520	3.542	3.564
NGPA Section 109 Threshold	2.254	2.262	2.270	2.278	2.289	2.300	2.311	2.320	2.329	2.338	2.345	2.352
130% of No. 2 Fuel Oil in New York City Threshold	9.240	9.320	8.820	8.120	7.550	6.950	7.540	7.610	7.440	7.550	7.670	7.880

CALENDAR YEAR 1984

	January
Incremental Pricing Threshold	$2.283
NGPA Section 102 Threshold	3.586
NGPA Section 109 Threshold	2.359
130% of No. 2 Oil in New York City Threshold	7.730

[FR Doc. 83-34696 Filed 12-29-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1030

[Docket No. 80N-0099]

Performance Standards for Microwave and Radio Frequency Emitting Products; Measurement and Test Conditions; Further Amendment to Microwave Oven Performance Standard and Termination of Stay of Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule; further amendment and termination of stay of regulation.

SUMMARY: The Food and Drug Administration (FDA) is terminating the stay of effective date of the November 28, 1980 final rule that amended the performance standard for microwave ovens. The final rule added a new definition of "equivalent" plane-wave power density" and deleted the error limit and effective aperture requirements for instruments used for compliance measurement of leakage radiation from microwave ovens. The stay of effective date is being terminated because the issues that originally stayed the regulation have been resolved. The agency also is making minor editorial changes in the final rule.

DATES: This final rule will become effective on July 2, 1984, written comments regarding effective date by January 30, 1984.

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

FOR FURTHER INFORMATION CONTACT: Melvyn R. Altman, National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 2, 1980 (45 FR 29307), FDA published a proposal to delete from the performance standard for microwave ovens (21 CFR 1030.10) the error limit and effective aperture requirements for instruments used for compliance measurement of leakage radiation from microwave ovens. FDA also proposed to add § 1030.10(b)(8)(21 CFR 1030.10(b)(8)) to define "equivalent plane-wave power density." In response to the May 2, 1980 proposed rule, the agency received comments objecting to certain aspects of the proposal from a microwave instrument manufacturer and from an organization that represented many of the microwave oven manufacturers, the Association of Home Appliance Manufacturers (AHAM). The agency responded to these comments in the preamble to the final rule, which was published in the **Federal Register** of November 28, 1980 (45 FR 79028). The amendments were scheduled to become effective on November 30, 1981.

The concepts contained in the proposed amendments had been presented to FDA's radiation safety standards advisory committee, the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC), at its meeting in June 1978. TEPRSSC members were given copies of the final rule before TEPRSSC's meeting on December 3 and 4, 1980, and were briefed on the amendments at the meeting. AHAM raised strong opposition to the amendments. Due to obvious disagreements on interpretation of the amendments, TEPRSSC recommended that the then Bureau of Radiological Health (now the National Center for Devices and Radiological Health (NCDRH)) meet with representatives of AHAM to attempt to resolve the differences. NCDRH met with AHAM on December 19, 1980. Two members of TEPRSSC were also present at the invitation of the Center Director. No agreement could be reached then.

On December 23, 1980, AHAM formally petitioned the agency for reconsideration of the final rule amending the microwave oven standard. After careful consideration of the petition, FDA determined that all relevant information and views contained in the administrative record had previously been adequately considered. Therefore, pursuant to 21 CFR 10.33(d), FDA denied the petition for reconsideration. However, the agency determined that some points raised by AHAM deserved additional consideration. Therefore, as provided in 21 CFR 10.33 and 10.35, the agency, on its own initiative, decided to reconsider the matter and, in the **Federal Register** of April 24, 1981 (46 FR 23233), stayed until further notice the effective date of the final rule amending the microwave oven performance standard concerning measurement and test conditions. Also, in the same issue of the **Federal Register** (46 FR 23266), the agency announced that it was reopening the comment period on the proposed amendments until July 23, 1981.

FDA again met with representatives of AHAM on June 24 and July 14, 1981, and attempted to clarify the proposal and to resolve the differences in interpretation of it. As a result of the meetings, and in response to AHAM's request, FDA extended the comment period on the proposal until October 23, 1981 (46 FR 41102; August 14, 1981). On October 13, 1981, NCDRH and AHAM

staff again met to discuss remaining issues in the matter. Because both staffs believed that the issues were nearly resolved, FDA, at AHAM's request, administratively extended the comment period to November 23, 1981.

A summary of each meeting is on public display under Docket No. 80N-0099 in Dockets Management Branch (address above), and is available for public review between 9 a.m. and 4 p.m., Monday through Friday.

On November 17, 1981, NCDRH arranged a laboratory demonstration to illustrate for AHAM's representatives the practical application of technical points resolved in the earlier discussions. Also, on November 17, 1981, AHAM formally requested an FDA advisory opinion on six issues that the NCDRH and AHAM representatives had discussed at the meetings. On November 23, 1981, FDA issued the requested advisory opinion. Subsequently, on November 24, 1981, AHAM acknowledged receipt of the advisory opinion and endorsed promulgation of the amendments to the performance standard for microwave ovens as published in the **Federal Register** of November 28, 1980.

The issues dealt with in the advisory opinion included: (1) the continued use of existing commercially available instruments for compliance measurements of leakage radiation from microwave ovens; (2) the availability from NCDRH of a listing of measurement errors and acceptable rejection limits for use in factory compliance testing for each of the survey instruments currently available; (3) the manner in which measurement errors and rejection limits for instruments used in compliance testing would be determined; (4) the possible need to make changes in plant instrumentation and procedures as a result of the amendments; (5) the opportunity that would be provided the microwave oven industry and concerned trade associations to review and comment on future changes in instrumentation policies, procedures, and protocols before their adoption; and (6) NCDRH's position on the draft proposed American National Standards Institute, Inc., voluntary standard for human exposure to radiofrequency electromagnetic fields (ANSI C95.1), and, specifically, how it may be useful in the evaluation of risk of injury. Copies of November 23, 1981 advisory opinion have been sent to all microwave oven manufacturers, and a copy also is on public display in the Dockets Management Branch (address above). Any interested person desiring a copy of the advisory opinion may obtain it from the NCDRH contact person at the address listed at the beginning of this document.

No other comments on the proposal were received during the reopened comment period.

At its meeting on December 9 and 10, 1981, FDA officials informed TEPRSSC that satisfactory resolution of differences between FDA's and AHAM's interpretations of the amendments to the microwave oven standard had been reached. Minutes of the meeting are on public display in the Dockets Management Branch (address above).

Thus, having reconsidered the impact of the amendments, having satisfied the concerns of AHAM, and having received no other comments during the reopened comment period, FDA concludes that the November 28, 1980 amendments to § 1030.10 should be implemented and the April 24, 1981 stay of effective date should be terminated. In addition, the agency is making several nonsubstantive editorial changes in the final rule. However, to allow adequate time to comply with the amended standard, the agency concludes that the effective date of the rule should be July 2, 1984. There is good cause to set this effective date so that terminating the stay of the rule does not cause the amendments to become effective on the date of publication of this document in the **Federal Register**, with resulting disruption of the affected industry. FDA believes it unnecessary to propose this effective date considering the previous opportunities for comment afforded in the rulemaking and the resolution of issues involved with the rule, as described above. Accordingly, there is good cause under 5 U.S.C. 553(b)(B) to forego proposing the new effective date. The agency, nevertheless, is providing a 30-day period during which it will accept comments on the effective date of July 2, 1984. If FDA decides on the basis of comments received that any change to the effective date of the amendments is necessary, it will publish the change in the **Federal Register.**

For the convenience of the reader, the amendments to § 1030.10 are republished in this document.

FDA has examined the regulatory impact of this final rule in accordance with the criteria of Executive Order 12291 and has found that the final rule is not a major rule as defined in the Order. Neither the cost nor other economic impacts associated with the final rule exceed the criteria for a major rule specified in the Order. Specifically, this rule does not require any change in the current level of compliance testing for microwave ovens, nor does it require any changes in current in-plant instrument-check procedures. The provisions of the final rule allow the use of existing commercially available instruments for measuring microwave oven leakage radiation, and they take into account the possibility of future improved designs.

The requirement for a regulatory flexibility analysis under the Regulator Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is, therefore, exempt. In any event, FDA certifies that this final rule will not have a significant economic impact on a substantial number of small entities for the reasons stated above.

List of Subjects in 21 CFR Part 1030

Electronic products, Microwave ovens, Radiation protection, Standards.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 as amended (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the stay of effective date of § 1030.10(b)(8) and (c)(1) and (3) (i) and (ii), published in the **Federal Register** of April 24, 1981 (46 FR 23233), is terminated, and § 1030.10(b)(8) and (c)(1) and (3) (i) and (ii) is editorially revised to read as follows:

PART 1030—PERFORMANCE STANDARDS FOR MICROWAVE AND RADIO FREQUENCY EMITTING PRODUCTS

§ 1030.10 Microwave ovens.

* * * * *

(b) * * *

(8) "Equivalent plane-wave power density" means the square of the root-mean-square (rms) electric field strength divided by the impedance of free space (377 ohms).

(c) *Requirements*—(1) *Power density limit.* The equivalent plane-wave power density existing in the proximity of the external oven surface shall not exceed 1 milliwatt per square centimeter at any point 5 centimeters or more from the external surface of the oven, measured

prior to acquisition by a purchaser, and, thereafter, 5 milliwatts per square centimeter at any such point.

* * * * *

(3) *Measurement and test conditions.* (i) Compliance with the power density limit in paragraph (c)(1) of this section shall be determined by measurement of the equivalent plane-wave power density made with an instrument which reaches 90 percent of its steady-state reading within 3 seconds, when the system is subjected to a step-function input signal. Tests for compliance shall account for all measurement errors and uncertainties to ensure that the equivalent plane-wave power density does not exceed the limit prescribed by paragraph (c)(1) of this section.

(ii) Microwave ovens shall be in compliance with the power density limits if the maximum reading obtained at the location of greatest microwave radiation emission, taking into account all measurement errors and uncertainties, does not exceed the limit specified in paragraph (c)(1) of this section, when the emission is measured through at least one stirrer cycle. As provided in § 1010.13 of this chapter, a manufacturer may request alternative test procedures if, as a result of the stirrer characteristics of a microwave oven, such oven is not susceptible to testing by the procedures described in this paragraph.

* * * * *

Interested persons may, on or before January 30, 1984, submit to the Dockets Management Branch (address above) written comments regarding the effective date established for this final rule. If FDA decides on the basis of comments received that any change to the effective date is necessary, it will publish the change in the **Federal Register.** Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. to 4 p.m., Monday through Friday.

Effective date. This regulation is effective July 2, 1984.

(Sec. 358, 82 Stat. 1177–1179 as amended (42 U.S.C. 263f))

Dated: November 23, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-34430 Filed 12-29-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 44

[Docket No. R-83-1132; FR-1813]

Non-Federal Governmental Audit Requirements

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule sets forth general audit requirements for State and local governmental entities that receive Federal assistance from HUD. Entities covered include State and local governments, public housing agencies, Indian tribal governments and Indian housing authorities, and any of their subdivisions. The regulations implement the requirements of OMB Circular A-102, Attachment P—"Audit Requirements," which was published in the **Federal Register** on October 22, 1979 (44 FR 60958) and September 10, 1980 (45 FR 59668) and is listed at 5 CFR 1310.5.

DATES: *Effective Date:* Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication but not before further notice of the effective date is published in the **Federal Register.**

Comment due date: February 28, 1984.

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

FOR FURTHER INFORMATION CONTACT: Steven A. Switzer, Assistant Inspector General for Audit, Office of Inspector General, Department of Housing and Urban Development, Room 8282, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755-6342. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

The information collection requirements contained in 24 CFR 44.5 have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when it is assigned, will be announced by separate notice in the **Federal Register.**

OMB Circular A-102, Attachment P—"Audit Requirements", sets forth uniform guidelines for the organization-wide audit of State and local governmental and Indian tribal recipients of Federal assistance. The implementation of these audit requirements should begin with the next cyclical audit for the entity as defined by the recipient organization. Under Attachmemt P, these recipient organizations, as well as subrecipients, will develop their own procedures to arrange for the independent audit of their financial statements, including operations. For HUD purposes, recipient organizations include public housing agencies and Indian housing authorities. The audits include financial and compliance elements on an organization-wide basis, rather than on a grant-by-grant basis. Audits that meet the prescribed requirements are to be accepted by all Federal awarding agencies. Any audit work conducted by a Federal agency must build on, but not duplicate, the audit work already done. With respect to particular programs, OMB may grant an exception to these audit requirements. Any exceptions to the Circular's audit requirements will be included in the particular program regulation.

The regulations are general in nature and are intended to apply to recipient organizations that receive Federal assistance from HUD either directly or indirectly. They define the type of recipient governmental organization that may conduct the prescribed independent audit, define the type of audit to be conducted, and reserve HUD's right to conduct a specific audit where necessary. A copy of the OMB Circular Attachment appears as Appendix A to the new regulations.

This general interim regulation avoids the delay and duplication that would occur if these audit requirements were to be included within a variety of existing HUD regulations for specific programs. For example, on August 9, 1982, HUD published an interim rule on the Section 8 Housing Assistance Payments Program of Moderate Rehabilitation (47 FR 34376), which contains provisions pertaining to OMB Circular A-102, Attachment P (47 FR 34388, codified at 24 CFR 882.516(e)). However, piecemeal implementation in separate existing regulations has delayed implementation of these requirements for all HUD assistance programs. When this change becomes effective, the Department intends to

make a technical conforming change to 24 CFR 882.516(e) to delete reference to Attachment P.

The Department has determined that prior notice and public comment are unnecessary and good cause exists for publishing these regulations as interim, to become effective without a prior public comment. As noted above, these regulations implement OMB Circular A-102, Attachment P, as it pertains to HUD programs. The general public, and particularly the State and local governmental entities subject to the Attachment, have had a number of opportunities to review and comment upon it. On July 11, 1979, OMB published Attachment P as a Notice in the **Federal Register** (44 FR 40624), and invited interested parties to comment on it. Attachment P was made final in a Notice published on October 22, 1979 (44 FR 60958). In adopting the Attachment as final, OMB discussed the approximately 50 comments that were received from Federal agencies, State and local governments, professional associations, and others. Since then, a number of other Federal agencies have implemented Attachment P as it pertains to their programs, and most, if not all, recipient organizations have begun conducting audits in compliance with its requirements. When these Federal agencies published their implementing rules, recipient organizations, as well as the general public, were given opportunity to comment on the requirements. As noted above, HUD itself published for comment a regulation incorporating Attachment P's requirements for the Section 8 Housing Assistance Payment Program for Moderate Rehabilitation. Finally, on August 8, 1983, OMB published a Notice (48 FR 36030) inviting comment on proposed revisions to Attachment P. Comments from the public, as well as recipient organizations, will be taken into account in the final revision of the Attachment, which will be published as a Notice in the near future. Given these facts, good cause exists for publishing these regulations without prior opportunity for public comment. However, the Department is soliciting post-publication comments from the public on these regulations. All comments received within the 60-day comment period after publication of the interim rule will be considered by the Department in preparation of the final rule.

HUD will implement any final version of a revised Attachment P that results from the "Notice of comment" on the Circular that was published by OMB on August 8, 1983, that "Notice for comment" proposes to define the term "Federal assistance" as: "the transfer of money, property, services, or anything of value to a recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, through grants, cooperative agreements, loans, loan guarantees, interest subsidies, insurance, direct appropriations and work study programs; cost type contracts which are entered into under Federal procurement regulations for purchase, lease or barter of property or services for the direct benefit or use of the Federal Government, whether received directly or indirectly through another level of government. Federal assistance is provided through different Federal assistance programs which are generally listed in the 'Catalogue of Federal Domestic Assistance'." HUD will use this definition when finalized by the OMB revision. Public comment is invited on this definition, specifically on whether it covers all possible HUD programs of Federal assistance to State and local governments, as well as Indian tribal governments.

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

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities. The regulations impose no new requirements on recipient organizations. They promote simplification and uniformity in the auditing process and reduce to a great extent the necessity for overlapping audit procedures by a variety of Federal governmental agencies.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule was listed as item IG-1-83 in the Department's most recent Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47469) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

There is no Catalog of Federal Domestic Assistance program number applicable to this rule.

List of Subjects in 24 CFR Part 44

Audit requirements: non-federal governmental entities, Reporting and recordkeeping requirements.

Accordingly, 24 CFR is amended by adding a new Part 44, to read as follows:

PART 44—NON-FEDERAL GOVERNMENTAL AUDIT REQUIREMENTS

Sec.

44.1 Purpose.
44.2 Definitions.
44.3 OMB audit report requirements.
44.4 HUD audits.
44.5 Submission of Audit Report.

Authority: Sec. 7(d) HUD Act, 42 U.S.C. 3535(d).

§ 44.1 Purpose.

These regulations establish general audit requirements for recipient organizations in accordance with OMB Circular A-102, Attachment P,—"Audit Requirements."

§ 44.2 Definitions.

"Recipient organization" means a State department or agency, a local government, an Indian tribal government, or a subdivision of any of these entities that receives Federal assistance as defined by Attachment P from HUD, either directly, or indirectly as a subrecipient. This term also includes public housing agencies and Indian housing authorities.

§ 44.3 OMB audit report requirements.

Unless the Office of Management and Budget (OMB) makes an exception, each recipient organization shall comply with the audit and other requirements of Attachment P, including any amendments to those requirements prescribed by future OMB action. If OMB grants an exception from Attachment P coverage, the exception will be published in the regulations governing that HUD program.

§ 44.4 HUD audits.

The Secretary or an authorized representative shall have access to all

books, accounts, records, reports, files and other papers or property of a recipient organization pertaining to Federal assistance supplied by HUD to the Recipient Organization for the purpose of making specific surveys, audits, examinations, excerpts and transcripts. These HUD audits shall be conducted in accordance with procedures specifically denominated in other parts of this Title, where applicable.

§ 44.5 Submission of Audit Report.

To comply with the provisions of Attachment P, an audit report shall be submitted to the Federal cognizant agency as defined in the Circular and as assigned by OMB, within the time established by the cognizant agency. Federal cognizant agency audit responsibilities are contained in the *Cognizant Audit Agency Guidelines* developed by the Federal Inspectors General under Attachment P.

Authority: Section 7(d) Department of Housing and Urban Development, 42 U.S.C. 3535(d).

Dated: December 19, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 83-34446 Filed 12-29-83; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7932]

Income Tax; Information Returns of Barter Exchanges

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to information returns of barter exchanges. The amendments provide that barter exchanges may make information returns with respect to their corporate members or clients on an aggregate basis (transactional reporting is still required for non-corporate members or clients. The purpose of these amendments is to reduce the reporting burden on barter exchanges. These regulations generally affect exchanges.

DATES: The regulations are effective after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 [Attention: CC:LR:T] (202-566-3238).

SUPPLEMENTARY INFORMATION:

Background

This document contains final Income Tax Regulations (26 CFR Part 1) under section 6045 of the Internal Revenue Code of 1954, relating to information returns of brokers. These amendments clarify the information reporting requirements for barter exchanges. The amendments are issued under the authority of sections 6045 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 600, 26 U.S.C. 6045; 68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

The current regulations under section 6045 require transactional reporting by barter exchanges with respect to their corporate and non-corporate members or clients. These final regulations allow barter exchanges to report the transactions of their corporate members or clients on an aggregate basis. The regulations also define the term "corporate member or client." These regulations remove a substantial portion of the information reporting requirements of barter exchanges (due to go into effect on January 1, 1984). As these regulations merely remove a portion of a regulatory burden which had previously been promulgated, it is unnecessary to issue the regulations with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that these final regulations are not subject to review under Executive Order 12991 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to these final regulations as they will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of these regulations is Bruce H. Jurist of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations on matters of both substance and style.

List of Subjects in 26 CFR 1.6001-1—1.6109-2

Income taxes, Administration and procedure, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph. Section 1.6045-1 is amended by revising paragraph (f)(2). The revised provision reads as follows:

§ 1.6045-1 Returns of information of brokers and barter exchanges.

(f) *Information required.* * * *

(2) *Transactional reporting*—(i) *In general.* As to each exchange with respect to which a barter exchange is required to make a return of information under this section, the barter exchange, except as provided in paragraph (p)(2), shall show on Form 1099 the name, address, and taxpayer identification number of each member or client providing property or services in the exchange, the property or services provided, the amount received by the member or client for such property or services, the date on which the exchange occurred, and such other information as may be required by Form 1099, in the form, manner, and number of copies required by Form 1099.

(ii) *Exception for corporate clients or members.* As to each corporate member or client providing property or services in an exchange for which a return of information is required under this section, the barter exchange may report the name, address, and taxpayer identification number of the corporate member or client, the aggregate amount received by the corporate member or client during the reporting period for property or services provided by such corporate member or client in exchange for which a return of information is required, and such other information as may be required by Form 1099, in the form, manner, and number of copies required by Form 1099.

(iii) *Definition.* For purposes of paragraph (f)(2)(ii) of this section, the term "corporate member or client" means a member or client of a barter exchange which is a corporation as defined in section 7701(a)(3) (including an insurance company). The term corporation includes a pool, syndicate, partnership, or unincorporated association composed exclusively of corporations. A barter exchange may

treat a member or client as a corporation (and therefore as a corporate member or client) if such member or client provides an exemption certificate as described in A–29 of § 35a.9999–1 of the Temporary Employment Tax Regulations or provided that—

(A) The name of the member or client contains the term "insurance company," "indemnity company," "reinsurance company," or "assurance company";

(B) The name of the member or client contains one of the following unambiguous expressions of corporate status: Incorporated, Inc., Corporation, Corp., or P.C., but not Company or Co.; or

(C) The member or client is known to the barter exchange to be a corporation through a corporate resolution or similar document on file with the barter exchange clearly indicating corporate status.

* * * * *

These regulations merely remove a portion of a regulatory burden that had previously been promulgated. Therefore, it is unnecessary to issue the regulations with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 6045 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 600, 26 U.S.C. 6045; 68A Stat. 917, 26 U.S.C. 7805). Approved by the Office of Management and Budget under control number 1545–0715.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 27, 1983.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-34768 Filed 12-28-83; 12:44 pm]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–163; Ref: Notice No. 481]

Howell Mountain Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearm (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Napa County, California, within the Napa Valley viticultural area, to be known as "Howell Mountain." This final rule is the result of a petition submitted by members of the grape-growing and wine-producing industries in the viticultural area. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of this viticultural area and the subsequent use of the name Howell Mountain as an appellation of origin on labels and in advertisements will allow wineries to better designate the derivation of their wines and will enable consumers to better identify and differentiate the wines they may purchase.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in Part 4, Title 27, CFR. These regulations provide for the establishment of definite viticultural areas. They also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all American viticultural areas approved for use as appellations of origin.

An American viticultural area is defined in §§ 4.25(e)(1) and 9.11 as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as an American viticultural area. Under the procedures for proposing a viticultural area outlined in §§ 4.25(e)(2) and 9.3(b), a petition must contain evidence, historical or current, that the proposed area is—

(a) Locally and/or nationally known by the name specified;

(b) Encompassed by appropriate boundaries; and

(c) Possesses geographical features (climate, soil, elevation, physical features, etc.) which distinguish its viticultural features from surrounding areas.

ATF was petitioned by members of the grape-growing and wine-producing industries to establish a viticultural area in Napa County, California, to be known as "Howell Mountain." In response to the petition, ATF published in the **Federal Register** on August 19, 1983, a notice of proposed rulemaking (Notice No. 481, 48 FR 37670) concerning the establishment of the Howell Mountain viticultural area and solicited written comments from the public.

General Description

The viticultural area is located in Napa County, California, and consists of approximately 14,080 acres, with 198 acres of grapes and 2 bonded wineries. It is a relatively flat table top located southwest of Pope Valley within the Napa Valley viticultural area.

Historical and current evidence regarding the name as well as the boundaries of the viticultural area include:

(a) Copies of recent (1980 Ridge Vineyards, Inc., and 1978 Cakebread Cellars), and past wine labels (La Jota Vineyard, prior to 1900), each of which indicates the appellation Howell Mountain.

(b) The presence of "Howell Mountain Road" that runs through the viticultural area.

(c) The establishment of a winery on Howell Mountain in the early 1880's by Jean Brun and Jean Chaix.

Geographical features of the Howell Mountain viticultural area include the following:

(a) The viticultural area is located at an elevation of between 1,400 feet and 2,200 feet.

(b) The soils in the viticultural area are for the most part in the Aiken and Forward Group. These soil types are not commonly found in the vineyards of the Napa Valley floor.

(c) The climate on Howell Mountain is characterized by moderate temperatures, with an average mean temperature of 56.6° F., compared to an average mean temperature of 58.6° F. at St. Helena (to the southwest) and 59° F. in Pope Valley (to the northeast).

(d) The average yearly rainfall for Howell Mountain is 40.74", compared to 32.1" for Pope Valley and 35.4" for Napa Valley (St. Helena).

(e) Several days of the year the valley floor is covered with fog while Howell Mountain is at the same time exposed to sunlight.

The boundaries of the proposed Howell Mountain viticultural area may be found on four U.S.G.S. maps (Aetna Springs, St. Helena, Calistoga, and Detert Reservoir).

The boundaries, as proposed by the petitioner, are described in § 9.94.

Comments

No comments were received during the comment period. Having analyzed and evaluated the evidence contained in

the petition, ATF is adopting the Howell Mountain viticultural area as proposed.

Miscellaneous

AFT does not wish to give the impression by approving Howell Mountain as a viticultural area that it is approving or endorsing the quality of the wine from the area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Howell Mountain wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

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

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 since it will not result in:

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

(b) A major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

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

Disclosure

A copy of the petition and appropriate maps are available for public inspection during normal business hours at the following location: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, D.C.

Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, and Wine.

Authority

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.94 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.94 Howell Mountain.

Par. 2. Subpart C is amended by adding § 9.94 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.94 Howell Mountain.

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

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Howell Mountain viticultural area are four U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) "Detert Reservoir, CA.," 1959 (photorevised 1980).

(2) "Aetna Springs, CA.," 1958 (photorevised 1981).

(3) "Calistoga, CA.," 1958 (photorevised 1980).

(4) "St. Helena, CA.," 1960 (photorevised 1980).

(c) *Boundaries.* The Howell Mountain viticultural area is located in Napa County, California, and is part of the Napa Valley viticultural area. The exact boundaries of the viticultural area, based on landmarks and points of reference found in the approved maps, are as follows: Commencing at the 1,400' contour line at the intersection of Sections 15 and 16 in R6W/T9N of the Detert Reservoir Quadrangle U.S.G.S. map; Then, continue in an east and southeast direction along the 1,400' contour line to the southeast corner of Section 23 in R5W/T8N; Then, in a generally northwest direction along the 1,400' contour line until it intersects the line between Sections 21 and 22 in R6W/T9N; Then, north along the Section 21/22 boundary line to the starting point at the 1,400' contour line.

Signed: December 5, 1983.

Stephen E. Higgins,

Director.

Approved: December 14, 1983.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 83-34578 Filed 12-29-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Baltimore Regulation 83-16]

Safety Zone Regulations; Chesapeake Bay, Baltimore Harbor, Baltimore, MD

AGENCY: Coast Guard DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Baltimore Inner Harbor, Baltimore, Maryland. The zone is needed to protect watercraft from a possible safety hazard associated with a New Year's Eve fireworks display. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 11:30 pm EST, 31 December 1983. It terminates at 12:30 am EST, 1 January 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Larry H. Gibson, USCG Marine Safety Office, Customhouse, Baltimore, MD 21202 (301) 962-5105.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30

days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants on the scheduled display date.

Drafting information

The drafter of this regulation is Lt. John J. O'Brien, Jr. Project Officer for the Captain of the Port Baltimore, MD.

Discussion of Regulation

The event requiring this regulation will occur on 1 January 1984. This safety zone is necessary due to the hazards involved with location of the barges used for the display platform and the flammable nature of the fireworks. This action will prevent possible damage to watercraft and their occupants in the event of a collision with the barges or a stray pyrotechnic projectile.

List Of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

Regulation: In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new 165.TO516 to read as follows:

§ 165.TO516 Safety Zone: Baltimore Inner Harbor, Baltimore, Maryland.

(a) *Location.* The following area is a safety zone: A line beginning at 39°16'44" N 76°36'15" W then following the shoreline to 39°16'54" N 76°36'25" W then following a line across the harbor to 39°16'58" N 76°36'15" W then following the shoreline to 39°16'51" N 76°36'03" W then following a line across the Channel to the point of beginning. The barges used for a fireworks platform shall be moored within the safety zone approx. position 39°16'52" N 76°36'15" W.

(b) *Regulations:*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: December 20, 1983.

J. C. Carlton,

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

[FR Doc. 83-34630 Filed 12-29-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Health Professions Student Loan Program

AGENCY: Public Health Service (PHS), HHS.

ACTION: Stay of effective date for compliance with delinquency rate standard.

SUMMARY: The Secretary of Health and Human Services is staying, until December 31, 1984, the imposition of the penalty provided in 42 CFR 57.216a for any health professions school participating in the Health Professions Student Loan (HPSL) program which fails to attain a delinquency rate on HPSL loans that is no more than the rate specified in that regulation.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Alice N. Swift, Acting Chief, Program Development Branch, Division of Student Assistance, Bureau of health Professions, Health Resources and Services Administration, Parklawn Building, Room B-48, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301-443-4540.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 3, 1983 (48 FR 25064), the Department of Health and Human Services (HHS) adopted final amendments to the regulations governing the HPSL program (42 CFR Part 57, Subpart C). Among other things, the amendments added a new § 57.216a, entitled *"Performance standard"*, which requires in general that each school participating in the HPSL program attain either a borrower or dollar delinquency rate of not more than 5 percent. The borrower delinquency rate is to be calculated by dividing the number of the school's delinquent borrowers by the total number of the school's borrowers whose loans are in repayment status (§ 57.216a(a)); and the dollar delinquency rate by dividing the sum of the total amount of principal outstanding on all loans delinquent by the total principal amount loaned for all loans in repayment status (§ 57.216a(b)).

The regulation requires that each school must attain the 5 percent standard by June 30, 1983, and on each June 30 thereafter, except as follows: Any school whose delinquency rate is higher than 5 percent on June 30 of any year must (i) reduce its delinquency rate by 50 percent (for attain the 5 percent rate) by the close of the following six-month period, and (2) by the end of each succeeding 6-month period, reduce its delinquency rate to 50 percent of the rate it was required to reach for the previous six-month period, until it reaches 5 percent. § 57.216a(c). Any school that fails to attain the delinquency rate thus required of it is to be suspended from the program (i.e., will receive no new HPSL funds and will not be permitted to make new student loans), and may be reinstated only if it attains its required delinquency rate (§ 57.216a(d)). If a suspended school does not attain the delinquency rate required of it as of the end of a six-month period of suspension, it will be terminated from the program and may reapply only when it reduces its delinquency rate to 5 percent or less (§ 57.216a(e)).

The practical effect of the regulation summarized above is that any school which, on June 30, 1983, had both a borrower and a dollar delinquency rate of more than 5 percent, must reduce one of those rates either by 50 percent or to 5 percent by December 31, 1983, or be suspended from the HPSL program.

In the same issue of the **Federal Register**, the Department also published a Notice of Proposed Rulemaking (48 FR 25071, June 3, 1983) inviting public comment on a proposal to amend § 57.216a to eliminate borrower delinquency as a method of calculating a school's delinquency rate. As proposed, the regulation would therefore require that a school's delinquency rate, and thus its compliance with the standard, be calculated on the basis of dollar delinquency alone.

The Department is now considering the comments received in response to the June 3, NPRM. Until those comments have become fully evaluated and a policy choice made as to how the delinquency rate will ultimately be calculated, the Secretary is unwilling to impose upon schools the penalty provided for in the current regulations.

Accordingly, the Secretary hereby stays, for a period of one year, the imposition of the penalty provided for in § 57.216a for schools that fail to attain the delinquency rates specified in that section. This means that no penalty will be imposed based on delinquency rates as of June 30, 1983, and that schools who do not have a borrower or dollar delinquency rate of 5 percent or less by June 30, 1984, will be required to attain the rate specified in § 57.216a(c) by December 31, 1984, or be suspended from the HPSL program as provided in § 57.216a(d).

(*Catalog of Federal Domestic Assistance*, No. 13.342, Health Professions Student Loan Program)

Dated: December 27, 1983.

James F. Dickson,

Acting Assistant Secretary for Health.

Approved: December 27, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-34841 Filed 12-29-83; 9:02 am]

BILLING CODE 4160-15-M

Office of Community Services

45 CFR Part 1076

Rural Development Loan Fund

AGENCY: Office of Community Services, HHS.

ACTION: Final Rule.

SUMMARY: This rule governs the Rural Development Loan Fund which was continued by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) repealed the provisions of the Economic Opportunity Act of 1964, which authorized the former Community Services Administration (CSA) to implement the Rural Development Loan Fund (RDLF), and enacted authority for the Secretary of Health and Human Services to continue to operate the RDLF program. The Secretary has decided to implement the RDLF program with new regulations in order to make certain policy changes and improve the administration of the program.

DATES: This rule is effective on December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Rupp at 202-653-5675.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on November 10, 1983, and this final rule reflects revisions which took into consideration the comments received in response to the proposed rule. This rule will supersede existing RDLF regulations, 45 CFR 1076.50-1 through 1076-50-14, and affects all existing and future RDLF loan recipients. It does not negate legal contractual arrangements that CSA or recipient intermediaries operating relending programs have already entered into with borrowers under the previous regulations.

Seven comment letters were received in response to the proposed rule, primarily from previous RDLF recipients. Areas of concern included interest rates, approval of administrative costs of the program, "excess proceeds", and the requirement of two turndowns by prospective sub-borrowers. One commentor suggested that the proposed rule ought to be withdrawn in order to allow for additional re-drafting. We do not believe it would be appropriate to withdraw the rule from consideration, inasmuch as the Office of Community Services (OCS) is under mandate from Congress to obligate $10 million in loan funds by December 31, 1983. The following discussion of comments and revisions to the proposed rule is presented in order of section number.

Section 1076.50-1. *Applicability.* Some commentors argued that previous RDLF loan recipients should not be covered by the new rule or parts of it, especially the provisions on "excess proceeds" and approval of administrative cost budgets by OCS. As a matter of prior commitment, it ought to be pointed out that all previous RDLF recipients agreed in their loan agreements and notes to be bound by the provisions of the existing and any future RDLF regulations. In a practical sense, inasmuch as several past RDLF recipients have applied for loans under the current $10 million announcement and the Congress has directed that priority be given to such previous RDLF recipients, it is quite conceivable that one or another previous RDLF recipient may be awarded a new loan; and in such a case it would be impractical to administer a previous loan under one set of rules, and a currently-awarded loan under another. Moreover, as a matter of even-handed administration, it would be inappropriate to treat previous RDLF recipients in a substantially different manner from new RDLF loan recipients. In the event that some aspect of this regulation's applicability to past recipients is held invalid in the future, there is new language in this section to preserve the unaffected provision in this regulation.

Section 1076.50-2. *Definitions.* With respect to the definition of "community development corporation", it was pointed out in comments that several CDCs (including some previous RDLF recipients) were assisted under Title VII of the Economic Opportunity Act of 1964, but are not currently receiving assistance under Part 1 of the Community Development Act of 1981. Accordingly, the definition in the final rule will include Title VII CDCs. With respect to the definition of "low income", some commentors suggested that there were other indexes besides the Poverty Guidelines published by the Secretary of HHS and that these ought to be allowable. In the interest of uniform monitoring and clear direction to recipients, it is important that only one unambiguous poverty index be used and that it be the one designated by the Secretary, inasmuch as the RDLF is an anti-poverty program under the administration of HHS. With respect to the definition of "private non-profit", it was pointed out that the non-profit status of an organization should not be tied to only one form of tax-exempt status, inasmuch as many worthy non-profit organizations either do not hold or do not aspire to tax exemption under the Internal Revenue Code 501(c)(3). In view of this observation, the final rule will not specify any particular tax exemption status for a non-profit organization. With regard to the definition of "rural", some commentors expressed concern that this definition would possibly hamper coordination with other federal programs such as the Farmers Home Administration. It was the intent of the definition of rural at 25,000 population or less to ensure that the program serves the most rural areas, and due to the limited funds available in the RDLF it remains the intent to bring economic advancement to the most rural low-income residents.

Section 1076.50-5. *Eligible activities.* It was noted in the comments that the rule allows recipients to extend financial assistance only in the forms of loans or loan guarantees, and no other forms. It has been found that in some RDLF programs that the RDLF assets have been encumbered or pledged either for non-RDLF purposes or for types of financial assistance other than loans or loan guarantees (such as assignments of assets, collateral, compensating balances, etc.). A clarifying paragraph on this will be included.

Section 1076.50-7. *Terms of loans/guarantees.* Some commentors observed that the requirement for sub-borrowers to be turned down by two other lenders before being assisted by an RDLF recipient was either overly onerous or counterproductive. However, it was also noted that this "two turndown" policy is contained in other government programs to ensure that the applicant is experiencing difficulty in securing financial assistance for business purposes. Among the current RDLF recipients, there does not appear to have been widespread problems in securing or confirming such turndowns for loan sub-applicants. Thus the policy will be retained in the final rule. With respect to the requirement that a majority of new employees of projects assisted by an RDLF sub-loan be low-income rural residents, some commentors thought that the percentage should be between 20 and 30 percent. Inasmuch as the RDLF is an anti-poverty program and

there still exists a high level of unemployment among low-income rural residents, it is not unreasonable to require that a majority of ultimate beneficiaries of the RDLF be the rural poor.

Section 1076.50–8. *Interest on loans; allowable costs.* Several commentors expressed the opinion that the interest rate for loans from OCS to RDLF recipients was too high, i.e., 4 percent below the Treasury rate for comparable maturities, but not less than 5 percent. In support of this opinion, it was stated that a lending institution, including an RDLF recipient, needs a certain "spread" between the interest rate at which it borrows funds and the interest rate at which it lends it out. The spread is needed to cover operating expenses and lending losses. Various commentors suggested reasonable spreads of 3.5 to 8 percent were needed to cover costs. However, it is not possible to make a direct comparison of this interest rate spread to the setting of the loan interest rate from OCS (i.e., the 4 percent below Treasury borrowing rates). For one thing, virtually no RDLF loan applicant has proposed setting its relending interest rates at the Treasury rate and thus locked itself into a 4 percent spread. Additionally, virtually all RDLF recipients have proposed to charge borrowers various fees or assessments amounting to 1½ to 5 percent of the loan amount at the time of loan closing, and some charge applicants fees at the time of making a loan commitment. Maximum flexibility is given for RDLF recipients to negotiate the terms with their sub-borrowers. As to the interest rate that OCS will charge the RDLF recipients, it bears repeating that the rate has been set both to reflect the high cost that the Treasury has in meeting its obligations and to ensure that RDLF recipients run their anti-poverty lending or guaranteeing programs efficiently, including the acquisition of technical assistance.

One commentor suggested that the interest rate to be charged on loans to RDLF recipients should be on a sliding scale so as to provide a built-in incentive for the recipient to perform to the maximum, such that the interest rate would start at 3 percent below the Treasury rate for recipients which had utilized up to 50 percent of their loan, drop to 4 percent below Treasury rate for recipients utilizing between 50 and 90 percent of their loan, and drop even further to 5 percent below the Treasury rate for recipients utilizing over 90 percent of the loan funds. While having some merit, this concept cannot be implemented at this time due to the existing Congressional deadline of December 31st to obligate this round of RDLF funding and other administrative complications.

Various commentors questioned the need for the provision on "excess proceeds" returning to the RDLF at the end of the loan period. Some stated this provision would contribute to program inefficiencies on behalf of RDLF recipients (presumably encouraging excessively high costs in order to avoid having any excess proceeds to return to the Treasury at the end of the loan). Part of this question is discussed in the section on "Applicability" above, as to whether it applies to previous RDLF recipients. The intention of this provision is to make certain the disposition of the remaining assets in the RDLF program at the end of a loan, and to return to the RDLF revolving account any extra funds not needed to conduct a closed-out loan program.

Section 1076.50–9. *Security.* With regard to the amount of insurance coverage to be taken by the RDLF recipient, it was noted that the "depreciated replacement value" of an asset may be zero long before the end of its useful life, due to accelerated depreciation methods. Accordingly, the term, "depreciated" will be omitted. With respect to appraisals on property serving as collateral security, it was also noted that this requirement may impose quite costly considerations in cases of certain types of property and by requiring a qualified appraiser. In order to ensure a proper valuation on collateral, this requirement will be modified somewhat, so that real property still will be required to be appraised by a qualified appraiser and other property to be valued by any recognized valuation technique, including standard reference manuals.

Section 1076.50–10. *Post award requirements.* With regard to drawdowns of funds by RDLF recipients in advance of need, it was pointed out that allowing immediate drawdowns of the total loan amounts created two undesirable side effects: disincentive to the RDLF recipient to utilize the funds for re-lending or guaranteeing in an expeditious manner, and a needless enlargement of the Federal deficit. It was pointed out that the OCS Inspector General had found several RDLF recipients which had hundreds of thousands of dollars (in some cases over a million dollars) of idle RDLF funds which they had drawn down but neither lent out or used as reserves for guarantees. In order to prevent such a misallocation of resources, it was proposed that RDLF recipients be able to draw down funds only on an immediate (30-day in advance) basis. In a similar vein, a previous RDLF recipient which had obtained an additional RDLF loan should be able to draw down funds from the new loan only after having drawn down and utilized the funds from the previous loan. Inasmuch as the provisions on draw downs of funds for previous RDLF loans were addressed primarily in the loan agreements, it was decided to continue this practice for any such limitations. In addition, this regulation requires prior approval of a recipient's annual administrative budget and the return of unused proceeds from an RDLF loan at the end of the loan term.

Section 1076.50–11. *Liquidation; default.* One commentor observed that in case of default, OCS may want to have the option of stepping in through the use of an agent so as to become a lender or mortgagee in possession, rather than requiring an immediate sale or disposal of security. This option is already open in any default settlement arrangement, and thus does not need to be spelled out in the rule.

Section 1076.50–12. *Conflict of interest.* A commentor brought up the point that subparagraphs (a) and (b) on conflict of interest differed in the relationships involved for no apparent reason. The language in these two paragraphs will be brought into conformity with each other.

Regulatory Impact and Regulatory Flexibility Act

This proposed rule governs a program with a probable budget of no more than $10 million in fiscal year 1984. Since the annual economic impact of the rule will not exceed $100 million and the rule does not meet any of the other criteria of a major rule as established in Executive Order 12291, a regulatory impact analysis is not required.

This rule applies to a relatively small number of applicants. The Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)) is not required.

List of Subjects in 45 CFR Part 1076

Community action programs, Loan programs, Rural areas, Small business, Economic development, Community development.

For the reasons set forth in the preamble, 45 CFR Part 1076 is amended by revising Subpart 1076.50 to read as follows:

PART 1076—ECONOMIC DEVELOPMENT PROGRAMS

* * * * *

Subpart 1076.50—Rural Development Loan Fund

Sec.

1076.50–1 Applicability.
1076.50–2 Definitions.
1076.50–3 Purpose of RDLF.
1076.50–4 Organizations eligible for financial assistance under this program.
1076.50–5 Eligible activities.
1076.50–6 Priorities.
1076.50–7 Terms of loans/guarantees.
1076.50–8 Interest on loans; allowable costs.
1076.50–9 Security.
1076.50–10 Post award requirements.
1076.50–11 Liquidation; default.
1076.50–12 Conflict of interest.
1076.50–13 Application procedures.

Authority: The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, Sections 623–624, 42 U.S.C. 9812, and Section 681, 42 U.S.C. 9910.

§ 1076.50–1 Applicability.

(a) This regulation implements Pub. L. 97–35, Sec. 623–624, 42 U.S.C. 9812, and Sec. 681, 42 U.S.C. 9910. It governs the use of RDLF funds obligated by CSA in FY '80 and '81 and by HHS in FY '84 and subsequent years unless amended or superseded by new regulations. It does not, however, negate legal contractual arrangements that CSA or intermediaries operating relending programs have already entered into with borrowers under the previous regulations.

(b) For example, it does not change the interest rates of loans already made to existing intermediaries, nor does it change the conditions or terms of sub-loans made by intermediaries under the previous regulations. Existing intermediaries however, must abide by the requirements of this rule in the making of all future RDLF sub-loans, such as: determining an applicant's eligibility, whether the proposed activities and priorities are appropriate, and the terms or conditions under which loans may be made. They must also abide by the relevant sections of § 1076.50–8 through § 1076.50–13 in the administration of all sub-loans, past and future, and in accounting to OCS for such administration. Generally, where loan agreements between a recipient and CSA/OCS or other funding documents refer to RDLF regulations, that reference will mean this rule, when it becomes final, rather than the previous regulations.

(c) In the event that any provision of applicability to previous RDLF loan recipients is found to be invalid, that finding shall not affect any other provision of this regulation.

§ 1076.50–2 Definitions.

(a) *Business facility*—A commercial or industrial enterprise operated primarily for the profit of its owners and which is located in a rural area as defined in paragraph (n).

(b) *Community-based organization*—A private non-profit organization that serves a local community and that has a governing body of which at least 50 percent of the members are residents of that community.

(c) *Community development*—Activity aimed at (1) stimulating the creation of commercial and industrial enterprises which result in increased income, ownership and employment opportunities for low-income rural residents; or (2) improving the physical infrastructure of a rural community, such as land development, constructing or improving community facilities, such as water and waste water facilities, etc.

(d) *Community development corporation*—Any non-profit organization responsible to residents of the area it serves which has received financial assistance under Title VII of the Economic Opportunity Act of 1964 or Part 1 of the Community Economic Development Act of 1981 (42 U.S.C. 9801) and any organization more than 50 percent of which is owned by such an organization, or otherwise controlled by such an organization, or designated by such an organization for the purpose of this subchapter (see 42 U.S.C. 9802).

(e) *Community facility*—A facility designed to aid in the development of private business and industry in rural areas such as land acquisition and site preparation of land for industrial parks, installation of water and waste water facilities necessary for the establishment or expansion of business facilities, access roads to industrial sites, etc.

(f) *Cooperative*—An incorporated or unincorporated association, the majority of whose members are low-income rural residents, whose members have one vote each, and which conducts for the mutual benefit of its members such operations as producing, purchasing, marketing, processing or other activities aimed at improving the income of its members as producers or their purchasing power as consumers.

(g) *Economic development*—Activity aimed at increasing income, ownership or employment opportunities for low-income rural residents.

(h) *Indian Groups*—Public and private agencies including, but not limited to: governing bodies of any Indian tribe, band, nation, or other organized group or community, including Alaska Native villages, a consortium of villages, or regional corporations recognized by the Secretary of the Interior as having special rights and responsibilities, and as eligible for the unique services provided by the United States to Indians because of their status as Indians; any organized group or consortium of such Indian tribes; organized groups of Indians that the State in which they reside has determined are Indian tribes; and Indian organizations in rural non-reservation areas.

(i) *Intermediary*—An organization provided a loan by the Department for the purpose of relending the funds to other eligible subrecipients.

(j) *Low-income*—The level of income of a person or family which is at or below the Poverty Guidelines as published periodically in the **Federal Register** by the Secretary.

(k) *Ownership*—Possession of income-producing property. Such possession may be in the form of (1) ownership, by an entrepreneur, of the business he/she operates (e.g., a sole proprietorship) or ownership by a group of enterpreneurs, (e.g., a partnership); (2) ownership, by an investor, of shares of stock issued by a corporation (with the investor's voting power determined by the number of shares he owns); (3) ownership, by an investor, of shares in a cooperative (with control based, not on the number of shares owned, but on the one-member-one-vote principle).

(l) *Private non-profit*—An organization incorporated under not-for-profit laws and not part of or controlled by a public agency.

(m) *Public agency*—Any State or local government, or any branch or agency of such government having the authority to act on behalf of that government, borrow funds, and engage in activities eligible for funding under this subpart.

(n) *Rural*—That land area of a State or Territory that is not within the boundary of any city or town with a population greater than 25,000 nor within its immediately adjacent urbanized area with a population density of more than 100 persons per square mile, as reflected by the latest Decennial Census.

(o) *Secretary*—The Secretary of Health and Human Services (HHS) or designee.

(p) *Supportive organization of cooperatives*—Any organization whose purpose is to provide economic, technical, or financial assistance to cooperatives.

§ 1076.50–3 Purpose of the RDLF.

(a) The purpose of the Rural Development Loan Fund is to alleviate rural poverty by promoting economic and community development activities

which result in expanded opportunities for low-income rural residents to increase their *ownership of, employment in,* or *income from local economic enterprise.*

(b) In accomplishing this purpose, the program seeks to provide loans and loan gurantees at the lowest reasonable cost; to leverage other governmental and private resources in a coordinated attempt to arrest tendencies toward dependency, chronic unemployment, and community deterioration; and to provide adequate technical assistance to assure the success of projects funded under the program.

§ 1076.50–4 Organizations eligible for financial assistance under this program.

The Department will provide financial assistance in the form of loans and/or loan gurantees. Such assistance may be made available directly to eligible applicants or indirectly through intermediary organizations which operate lending programs. Those eligible to receive assistance under this program are:

(a) Low-income rural families or individuals;

(b) Businesses organized for profit which are controlled by low-income residents or which provide for significantly increased income, ownership and/or employment opportunities for low-income rural residents;

(c) Community development corporations;

(d) Private non-profit organizations;

(e) Local cooperatives;

(f) Designated supportive organizations of cooperatives eligible for financial assistance under Subchapter A of Subtitle A of Title VI, Pub. L. 97–35;

(g) Public agencies; and

(h) Indian groups.

§ 1076.50–5 Eligible activities.

(a) Loans or guarantees made under this program may be used *only to finance the establishment, expansion or preservation of business facilities or the undertaking of community development projects in rural areas.* Examples of such activities are:

(1) The establishment or expansion of individual or family-owned businesses in rural areas engaged in various commercial or industrial activities, such as farming, manufacturing, construction, sales, service, etc.;

(2) The establishment or expansion of cooperatives in rural areas engaged in the production and marketing of farm products, equipment or supplies; the manufacture and sale of industrial, commercial or consumer products; or the provision of various services; etc.

(3) The undertaking of community development projects aimed at improving the economic conditions of a community such as:

(i) The creation of industrial parks;

(ii) The improvement of community facilities, such as water and waste water facilities essential to the establishment or expansion of businesses;

(iii) The establishment of businesses in "enterprise zones", or the improvement of the infrastructure in such zones, etc.

(b) Applicants seeking loans to carry out community development activities, such as those described in (a)(3) above, should consult with appropriate local governments during the planning and application process.

(c) Loans or guarantees may be made for the purchase of land and buildings, machinery and equipment, and for working capital.

(d) Loans or guarantees will not be available for the financing of social services, such as job training, day care, health services, etc.

(e) Loans or guarantees under this program generally will not be made for the refinancing of existing debt. Relenders must obtain prior written approval from the Department for any exceptions to this policy.

(f) Financial assistance shall be only in the form of loans or loan guarantees. No other form of financial assistance is authorized, including provision of collateral, assignment of assets, compensating balances, or co-signing without specific prior written approval from the Department. No assets of the RDLF program may be pledged, assigned, mortgaged, or otherwise encumbered or devoted outside the RDLF program, or for non-RDLF activities of a recipient.

§ 1076.50–6 Priorities.

In making financial assistance available to eligible organizations for business facilities and community development projects, the Department and intermediaries operating relending programs will give priority to projects which:

(a) Provide the greatest number of jobs to and/or significantly increased income and ownership opportunities for low-income rural residents;

(b) Are part of a coordinated community, regional or statewide effort;

(c) Employ a strategy of significantly leveraging or mobilizing other resources;

(d) Demonstrate a positive cost/benefit ratio; and

(e) Are managed by persons who have been successful in operating profit or non-profit enterprises.

§ 1076.50–7 Terms of loans/guarantees.

(a) No loans or guarantees shall be extended for a period exceeding 30 years.

(b) No loans or guarantees will be extended to an applicant unless:

(1) There is reasonable assurance of repayment of the loan based on the fiscal and managerial capabilities of the applicant;

(2) The loan is not otherwise available on reasonable (i.e., usual and customary) terms from private sources or other Federal, State or local programs; and

(3) The amount of the loan, together with other funds available, is adequate to assure completion of the project or achieve the purposes for which the loan is made.

(c) In order to satisfy condition number (b)(2) above, an applicant must provide documentary evidence that loan funds for the project in question have been denied by at least two other lending sources.

Note: Intermediaries need not comply with this requirement when applying for funds for the purpose of relending to sub-recipients. Potential sub-recipients applying to intermediaries must, however, provide such documentation.

(d) Where guarantees, rather than direct loans are made, the Department will guarantee up to 80% of the total amount of a loan to a qualified applicant.

(e) Loans or guarantees made by the Department and/or intermediaries for the purpose of purchasing land and buildings may not be for a period in excess of twenty-five years; those made for the purpose of purchasing machinery and equipment may not be for a period which exceeds the useful life of such items; those made for working capital may not be for a period in excess of five years.

(f) The terms of loan repayment will be those stipulated in the loan agreement and/or promissory note, as agreed to and executed by the Department and borrowers.

(g) Applicants proposing projects that will result in new employment opportunities must assure the Department that a majority of the new employees will be low-income rural residents.

§ 1076.50–8 Interest on loans; allowable costs.

(a) Loans made by the Secretary pursuant to this subpart shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of

comparable maturity, plus such additional charges, if any, toward covering other costs of the program as the Secretary of Health and Human Services may determine to be consistent with its purposes, except that for the five years following the date on which the funds are awarded to the borrower, the rate of interest shall be 4 percentage points below the rate established by the Secretary of the Treasury, but not less than 5 percent, whichever is higher.

(b) Interest rates charged by intermediaries to the ultimately intended borrowers shall be those negotiated between the intermediary and the borrower. Intermediaries are encouraged to make loans to such borrowers at the lowest possible rate, taking into account the cost of the loan funds to the intermediary and the cost of administering the loan portfolio.

(c) Interest on loans, premiums earned on guarantees, investment or interest income, service fees and other authorized financing charges received by intermediaries operating relending programs may be used to pay for: (1) The costs of administering the RDLF relending program, (2) the provision of technical assistance to borrowers and (3) the absorption of bad debts associated with RDLF loans. No administrative costs may be claimed without the express written approval of the Department. Proposed budgets to cover the administrative costs of intermediaries must be submitted annually for review and approval by the Department. All proceeds in excess of those needed to cover authorized expenses, as described above, must revolve back into the RDLF and be available for relending to eligible applicants. Any such excess proceeds shall be returned to the Secretary at the end of the loan period or upon repayment of the loan, whichever occurs first.

§ 1076.50–9 Security.

(a) *As a Credit Factor.* The availability of collateral security normally shall be considered as an important factor in making loans or guarantees. The types and amount of collateral security required should be governed by the relative strengths and weaknesses of other credit factors.

However, the taking of collateral as security should be considered in each loan making or guarantee transaction. Collateral security should be sufficient to provide the lender reasonable protection from loss in the case of adversity, but such security or lack thereof should not be used as the primary basis for deciding whether to extend credit.

(b) *Security interests.* Security interests which may be taken by the lender or guarantor include but are not limited to liens on real or personal property, including leasehold interests, assignments of income and accounts receivable, and liens on inventory or proceeds of inventory sales as well as marketable securities and cash collateral accounts.

(c) *Motor vehicles.* Liens ordinarily should be taken on licensed motor vehicles or boats purchased hereunder in order to be able to transfer title easily should the lender need to declare a default or repossess the property.

(d) *Additional security.* The lender or guarantor may require collateral security or additional security at any time during the term of a loan or guarantee if after review and monitoring an assessment indicates the need for such security.

(e) *Insurance on property secured.* Ordinarily, hazard insurance up to the amount of the loan or the replacement value of the property secured (whichever is less) will be taken naming the lendor as beneficiary. Such insurance includes fire and extended coverage, public liability, property damage, and other appropriate types of hazard insurance.

(f) *Appraisals.* Real property serving as collateral security will be appraised by a qualified appraiser. For all other types of property, a valuation shall be made using any recognized, standard technique (including standard reference manuals), and this valuation shall be described in the loan file.

§ 1076.50–10 Post award requirements.

(a) Borrowers receiving loans under this program shall be governed by these regulations, the loan agreement, the approved work program and any special conditions which the department may impose in awarding a loan.

(b) Unless otherwise specifically agreed to in writing by the Department loan proceeds and any interest thereon not immediately needed or disbursed by the borrower should be deposited in an interest bearing account or time deposit in a bank or other financial institution which can be fully covered by a form of federal deposit insurance.

(c) Any interest or income earned as a result of such deposits shall be used by the borrower only for purposes authorized by the statute, these regulations and officially approved loan agreement.

(d) Intermediaries operating relending programs must maintain separate ledgers and segregated accounts for RDLF funds at all times.

(e) Reporting requirements shall be those delineated in the loan agreement between the Department and a borrower and such subsequent communications as the Department deems appropriate. Intermediaries must document periodically the extent to which increased employment, income and ownership opportunities are provided to low-income rural residents for each loan made by such intermediary.

(f) No intermediary may make a loan to a borrower who has applied for or received a loan from another intermediary unless the Department provides prior written approval for such loan.

§ 1076.50–11 Liquidation; default.

(a) Should the Secretary determine that it is necessary or desirable to take action to protect or further the interests of the Department in connection with any default or breach of conditions under any loan or guarantee made hereunder, the Secretary may:

(1) Declare that the loan is immediately due and payable.

(2) Assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his/her discretion and upon such terms and conditions as he/she shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property or security assigned to or held by the Secretary in connection with financial assistance extended hereunder.

(3) Adjust interest rates, use fixed or variable rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by him/her and take such actions in respect to such loans and guarantees as are necessary or appropriate, consistent with the purpose of the Program and this subpart.

(b) Intermediaries shall report to the Department whenever a loan recipient is more than 90 days in arrears in the repayment of principal or interest.

(c) Failure by a borrower to comply with the provisions of these regulations and/or loan agreement shall constitute grounds for a declaration of default and the demand for immediate and full repayment of the loan.

(d) Failure by an intermediary to comply with the provisions of these regulations or to relend funds in accordance with an approved work plan or loan agreement shall constitute grounds for a declaration of default and the demand for immediate and full repayment of the loan.

(e) Failure of a lender making a guaranteed loan under this program to comply with the provisions of these

regulations or guarantee agreement or to disburse and service a loan in accordance with the authorization approving the loan shall release the Department from obligation to purchase its share of the guaranteed loan.

§ 1076.50–12 Conflict of interest.

No intermediary shall relend or guarantee funds to or for the benefit of:

(a) Any person who is a board member, employee, agent or consultant of such intermediary organization without specific prior written approval from the Department, given with full knowledge of the relationship involved, or

(b) Any organization which has on its governing board or as agent, consultant or employee, a person who is also a board member, employee, agent or consultant of the intermediary without specific prior written approval from the Department, given with full knowledge of the relationship involved.

§ 1076.50–13 Application procedures.

(a) Applications for participation in this program will be accepted only pursuant to the terms of these regulations and under the conditions set out in a notice of the availability of funds published in the **Federal Register**.

(b) Following publication of a notice of availability of funds applicants may obtain forms and instructions regarding application procedures by writing to: Office of Community Services, Rural Development Loan Fund, 1200 19th Street, NW., Washington, D.C. 20506.

Dated: December 22, 1983.

Jerrold B. Speers,

Acting Director, Office of Community Services.

Dated: December 23, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-34469 Filed 12-29-83; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 7]

Lamps, Reflective Devices and Associated Equipment; Correction

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

ACTION: Final rule; correction.

SUMMARY: This notice corrects an error in the amendment published on September 30, 1983 (48 FR 44815) relating to lamps, reflective devices and associated equipment. The error appears in the amendment to Figure 3–2. It is therefore necessary to correct the error. A dimensional tolerance of the side sectional view of the headlamp bulb assembly shown in Figure 3–1 was incorrectly stated.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590; (202)–426–2720).

SUPPLEMENTARY INFORMATION: In the response to petitions for reconsideration of the final rule on replaceable bulb headlamps, published on September 30, 1983 (48 FR 44815), the agency revised *inter alia* Figures 3–1 and 3–2 to make minor dimensional changes for the headlamp bulb assembly of the standardized replaceable light source. In Figure 3–2, which provides specifications for dimensions shown in Figure 3–1, the agency inadvertently specified "(1.126 to 1.222) .002 Either Side CL" for Dimension R. The correct figure is "1.122." It is necessary to correct the error.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.108 [Amended]

On page 44819, in Figure 3–2 of 49 CFR 571.108, the figure "1.222" under the column headed "Inches" for "Dimension R" is amended to read "1.222."

The lawyer and program offical principally responsible for this correction are Z. Taylor Vinson and Jere Medlin, respectively.

(Secs. 103, 112, 114, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: December 22, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-34725 Filed 12-29-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR PART 611

[Docket No. 31215-237]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to amend the foreign fishing regulations. The final rule establishes for 1984 the foreign fishing permit fee, and the surcharge for the Fishing Vessel and Gear Damage Compensation Fund. Under the final rule foreign nations will pay $86 per permit application but will not be required to pay for the Fishing Vessel and Damage Compensation Fund. This final rule will allow NOAA to recover 1984 administrative costs.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: John D. Kelly, 202–634–7432.

SUPPLEMENTARY INFORMATION:

Background

NOAA is publishing the fee schedule for 1984 in two segments. A proposed rulemaking (NPR) for the first segment which is the subject of this notice was published at 48 FR 41786 on September 19, 1983. Public comments were invited on the proposed rule for 30 days ending October 19, 1983. The comment period was extended for an additional 15 days, to November 3, 1983, on October 27, 1983, at 48 FR 49668.

After considering public comments submitted on the NPR, NOAA has decided to adopt this final rule. By this notice of final rule, NOAA will: (1) Increase the 1984 foreign fishing permit fee; and (2) waive the 1984 surcharge fee to capitalize the Fishing Vessel and Gear Damage Compensation Fund (FVGDCF). This notice will not make final at this time the part of the proposed rule which would (1) clarify that all fees, surcharges, and financial assurances required by the Secretary must be paid before foreign fishing permits will be issued; and (2) advise that the effective dates of foreign fishing permits may be restricted to periods less than the remainder of the calendar year. The NPR also proposed and NOAA makes final the technical changes to § § 611.20 and 611.22.

The basis for the proposed regulations was discussed at 48 FR 41788. Additional information was provided in the preamble to the notice of extension of the comment period (48 FR 49668). Comments on the NPR were received from six sources: The Japan Fisheries Association (JFA), Senator Ted Stevens, Congressman Don Young, Alaska Joint Venture Fisheries, Inc., Alaska Contact, Inc., and the Coordination Council for North American Affairs (CCNAA).

Only one comment concerned the permit fee and surcharge. The following summarizes that comment and NOAA's response to the comment. One other

comment is addressed below which asked NOAA to drop its proposal concerning payments of financial assurances and limiting effective dates of permits.

Comment

The Japan Fisheries Association said it found no reasonable justification for increases in line element cost associated with processing permit applications in view of the declining number of applications. It recommended that the permit application fee should not be increased for 1984.

Response. Increases in line element costs for salaries and computer services have occurred which are not proportional to the number of permits issued annually. Potential savings which could be realized by a reduction in the number of permit applications are offset by increases in annual salaries and computer costs. Even more significant is the increase in the average cost of processing permit applications. There have been increases in the percentage and the complexity of joint venture applications which are processed as part of the total number of applications. Because the principal review of joint venture applications and comments on these applications is the responsibility of the Department of Commerce (DOC), greater program cost increases occur in DOC than in the Department of State for each joint venture application received. Additionally, an increasing portion of the salaries and computer costs is incurred in reviewing and preparing permit modifications, such as extensions of the effective date of permits referenced in the NPR. These actions are not included in the number of permits used for this estimate. Thus, a fixed portion of the budget of the Fees, Permits and Regulations Division, NMFS, is allocated to the annual permit process (which includes associated billings and fee collections as well).

Comment

Two commenters requested additional information on provisions of the proposal concerning payments of financial assurances and restrictions on the effective periods of permits before NOAA proceeds to adopt a final rule. The commenters asked NOAA to withdraw the proposal until additional information is provided.

Response. Additional information on these proposals was provided with the notice of extension of the comment period published October 27, 1983 (48 FR 49668). Because this action is to explicate an existing authority in the Magnuson Act and only informs concerned parties of conditions for issuing permits and that permits may be of limited duration, NOAA has not agreed to withdraw the proposal, but it is delaying a decision on these proposals to allow time for further consideration.

Summary

As a result of consideration of the comments provided on the NPR, NOAA has decided to implement provisions of the proposed rule which would set 1984 foreign fishing permit fees and waive the surcharge for the FVGDC fund for at least 1984. NOAA delays issuance of a final rule on the remaining provisions to further consider the comments received on payments of financial assurances and conditioning the effective dates of foreign fishing permits. Concerned parties are advised that NOAA will continue to exercise its authority under the Magnuson Act in appropriate circumstances to impose any conditions and restrictions on foreign fishing permits, including financial assurances and time-conditioned permits, necessary and appropriate for conservation and management. NOAA will also consider in the interim whether further refinements in the application of financial assurances and conditional permits should be developed in association with the final rule. NOAA continues to invite interested members of the public to submit information on possible alternatives and standards for financial assurances and conditional permits. NOAA will respond to comments when the proposed action is finalized.

Classification

The Assistant Administrator has determined that this action is consistent with the Magnuson Act and other applicable laws. NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the regulations. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the regulations do not constitute a major rule under E.O. 12291. The RIR demonstrates that this final rule complies with the requirements of E.O. 12291.

These regulations will not have a significant impact on a substantial number of small domestic entities for purposes of the Regulatory Flexibility Act because the impacts are on foreign entities. The preamble to the proposed rule (47 FR 38947) states that the General Counsel of the Department of Commerce has so certified to the Small Business Administration.

This action does not constitute a major Federal action significantly affecting the quality of the human environment. These amendments are programmatic functions with no potential for environmental impacts under the National Environmental Policy Act.

The final rule has no information collection provisions, for purposes of the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

The Assistant Administrator has determined that in order not to disrupt foreign fishing operations, these regulations must be effective on January 1, 1984. Furthermore, an interruption in fishing for foreign vessels already in the FCZ would be costly to the foreign fishing companies, since their vessels would be incurring fixed operating costs while being forced to sit idle until the 30-day period elapsed. Therefore, the Assistant Administrator waives part of the 30-day delay in implementation required under the Administrative Procedure Act.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: December 27, 1983.

Carmen J. Blondin,

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

PART 611—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

§ 611.20 [Amended]

2. In § 611.20(c) revise "Office of Resource Conservation and Management, F/CM" to read "Office of Fisheries Management, F/MI".

3. In § 611.22 designate the third sentence of § 611.22(a)(1)(ii) as § 611.22(a)(1)(iii); remove from the fourth sentence of paragraph (a)(2)(ii) the words "federally chartered"; and revise paragraphs (a)(1)(i) and (b) to read as follows:

§ 611.22 Fee Schedule for Foreign Fishing Permits.

(a) * * *

(1) *Permit application fees.* (i) Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $86 per vessel, plus the surcharge if required under paragraph (b) of this

section, rounded to the nearest dollar. At the time the application is submitted to the Department of State, a check for the fees, made out to "NOAA-Department of Commerce", must be sent to: Division Chief, Fees, Permits and Regulations Division, F/M12, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. The permit fee payment must be accompanied by a list of the vessels for which payment is made.

* * * * *

(b) The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraph (a) of this section may also be required to pay a surcharge. The Assistant Administrator has waived the surcharge because he has determined that the Fishing Vessel Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator may reinstate or increase the surcharge during the year to a maximum level of 20 percent, if needed to maintain capitalization of the fund.

[FR Doc. 83-34647 Filed 12-27-83; 2:25 pm]

BILLING CODE 3510-22-M

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50 CFR Part 650

[Docket No. 31222-246]

Atlantic Sea Scallop Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; continuation of inseason adjustment.

SUMMARY: NOAA continues the temporary adjustment of its meat count and shell height standards for the Atlantic sea scallop fishery. The present meat count standard of 35 meats per pound (minimum shell height of 3⅜ inches), previously adjusted from 30 meats per pound (3½ inches), is continued through May 15, 1984. Continuation of this standard will eliminate inconsistencies in management measures imposed on Canadian and U.S. sea scallop fishermen that would adversely affect the U.S. domestic fishery if the standard reverted to 30 meats per pound. The adjustment allows U.S. fishermen to harvest sea scallops at sizes smaller than would be allowed in the absence of the continued adjustment.

EFFECTIVE DATE: January 1, 1984, through May 15, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Scallop Management Coordinator, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930, Telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: The regulations (50 CFR Part 650) implementing the Fishery Management Plan for Atlantic Sea Scallops (47 FR 35990, August 18, 1982) require the Director, Northeast Region, National Marine Fisheries Service (Regional Director), to review the status of the Atlantic sea scallop resource on a continuing basis.

In addition, the Regional Director must prepare a report annually concerning the status of the fishery and possible changes in the resource, fishery, or industry which might require adjustment of the management program. In the spring of 1983, the Regional Director, following consultation with the New England Fishery Management Council (Council), implemented the findings of his first annual report by temporarily adjusting the management standards to allow harvest of sea scallops at 35 meats per pound (minimum shell height of 3⅜ inches) through December 31, 1983 (48 FR 23434, May 25, 1983).

The fishery regulations at 50 CFR 650.22(b)(5) require the Regional Director to review such management standard and permit the Regional Director to renew it upon making a finding consistent with the criteria for initial adjustment specified in 50 CFR 650.22(c). The criteria which must be met include: (1) The objective of the scallop FMP would be achieved more readily and be better served through an adjustment of the prevailing standards; (2) the recommended alteration in the standards would not reduce expected catch over the following year by more than 5% from that which would have been expected under the prevailing standard; (3) the recommended standards for meat count and shell height are consistent with each other; and (4) inconsistencies exist in the management measures applied to sea scallop stocks in areas harvested by both domestic and foreign fishermen, and those inconsistencies provide foreign fishermen with an advantage over domestic fishermen which can be demonstrated to adversely affect the domestic fishery.

In a report presented to the Council at its November meeting, the Regional Director noted that these criteria are met in the same way and to the same extent as they were when the initial adjustment to a 35 meats per pound standard was promulgated on May 25, 1983. He recommended that the management standard adjustment be renewed through May 15, 1984, the second anniversary of implementation of the FMP.

A public hearing was scheduled in conjunction with the meeting of the Council on December 14, 1983, to solicit comments from the Council and the public on the Regional Director's recommendation. At the meeting, the Council voted to endorse the recommendation. No public comments in opposition to the action were received. The Regional Director has therefore determined to continue the adjusted management standards to allow the harvest of sea scallops at a standard of 35 meats per pound (minimum shell height of 3⅜ inches) during the period from January 1, 1984 through May 15, 1984. On May 15, 1984, the standard will revert to 30 meats per pound (minimum shell height of 3½ inches) level.

This action is taken under the authority of 50 CFR Part 650, and is taken in compliance with Executive Order 12291. (16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 650

Administrative practice and procedure, Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: December 27, 1983.

Carmen Blondin,

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

[FR Doc. 83-34652 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Parts 654 and 658

[Docket No. 31202-232]

Stone Crab Fishery and Shrimp Fishery of the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency rule; amendment; correction.

SUMMARY: This document corrects coordinates on Figures 3 and 4 which are charts delineating areas closed to fishing for shrimp or stone crabs. These charts were included for illustrative purposes with the emergency rule; amendment for the Stone Crab Fishery and Shrimp Fishery of the Gulf of Mexico that was published on December 7, 1983, at 48 FR 54821.

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

In FR Doc. 83-32589, Figures 3 and 4 appearing on page 54824 should be corrected as follows: Under "(Zone II is

in State waters)" the coordinates printed to the right should be changed from "28°50'" to read as "82°50'."

Figure 3 should be inserted at the end of "PART 654—STONE CRAB FISHERY" and Figure 4 should be inserted at the end of "PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO."

Dated: December 27, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-34651 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 252
Friday, December 30, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Amendment No. 3 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would further amend the continuing regulation § 959.322 to delete the ten-percent limitation on consumer-size packages, add 2, 3, 5, and 10-pound bags to container requirements and require city destinations on inspection certificates. It would enable handlers to ship unlimited quantities in consumer size packages and help the committee develop information on distribution patterns. The amendment would promote orderly marketing of such onions by removing limitations and providing marketing information.

DATES: Comments due January 28, 1984.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–5764.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 959) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB # 0581–0074.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

Marketing Agreement No. 143 and Order No. 959, both as amended, regulate the handling of onions grown in designated counties in South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in October 1981 the committee recommended, and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation submitted by the committee or other information available to the Secretary.

At its public organizational meeting in Laredo, Texas on November 3, 1983, the committee recommended that the regulation continue in effect again this season with two changes.

The committee recommended that the 10 percent limitation on consumer packages be deleted and 2, 3, 5 and 10-pound packages be included in paragraph (c), *Container requirements.* For the past decade onions shipped in consumer-sized packages were handled under paragraph (f) *Special purpose shipments,* and the volume so shipped was limited to not more than 10 percent of a handler's total volume. However, the committee has concluded that conditions that prompted this restriction no longer exist and that handlers are able to provide a higher-quality pack that will not deteriorate when packed in plastic or other types of material customarily used for consumer-sized packages.

The committee also recommended that city designations be added to inspection certificates. During the past season the committee carried out a market development and promotion project aimed at increasing trade awareness of South Texas onions in various city markets. They believe that requiring city destinations on inspection certificates will help the committee to further identify markets that would respond to furture market development projects.

Although the regulation proposed to be amended is effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before December 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension or termination of the regulations on shipments of South Texas onions would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 959

Marketing agreements and orders, Onion, Texas.

PART 959—ONIONS GROWN IN SOUTH TEXAS

Section 959.322 (47 FR 8551, 48 FR 7427, and 48 FR 25169) is hereby proposed to be further amended by redesignating (c)(3) as (c)(4), adding a new (c)(3), revising (d)(1), and the introductory text of (f)(2), removing (f)(2)(i), (ii), and (iii), and revising the introductory text of (g) as follows:

§ 959.322 Handling regulation.

* * * * *

(c) *Container requirements.*

(1) * * *

(2) * * *

(3) 2-pound, 3-pound, 5-pound and 10-pound bags. The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designed net contents.

(4) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e), (f)(1), or (f)(4)(ii) of this section, unless an inspection certificate has been issued by the Texas-Federal Inspection Service covering then and the certificate is valid at the time of shipment. City destinations shall be listed on inspection certificates and release forms.

* * * * *

(f) *Special purpose shipments.*

(1) * * *

(2) Onions may be packed in 50-pound cartons. Such shipments shall be exempt from paragraph (c) of this section, but must meet the provisions of paragraphs (a), (b) and (d) or paragraph (e) of this section and be handled in accordance with paragraph (g) of this section. The average net weight per carton shall not exceed 55 pounds.

* * * * *

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, canning, freezing or experimental purposes or onions packed in 50-pound cartons shall:

* * * * *

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

Dated: December 23, 1983.

Russell L. Hawes,

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

[FR Doc. 83-34477 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1207

Irish Potatoes Grown in the 48 Contiguous States of the United States; Recommended Decision on Proposed Amendment of Potato Research and Promotion Plan and Opportunity To File Written Exceptions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This recommended decision proposes an amendment to the Potato Reserach and Promotion Plan regulating potatoes grown in the 48 contiguous States of the United States, and provides interested persons an opportunity to file written exceptions to this decision. The proposed amendment would authorize an increase in the rate of assessment and the addition of a public member to the National Potato Promotion Board, hereinafter called the "Board." These provisions are designed to allow the Board to maintain research and promotion activities at effective levels, and to improve the program's administration.

DATE: Written exceptions to this recommended decision may be filed by January 13, 1984.

ADDRESSES: Written exceptions should be filed in duplicate with the Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–2615.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued October 20, 1983, and published October 24, 1983 (48 FR 49026).

This formal rulemaking action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

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

It has been determined that a comment period of less than 60 days is warranted. The proposal has already been discussed intensively at industry meetings and most industry members are familiar with the provisions. A similar proposal was also discussed at industry meetings last year and at a hearing in September 1982. Additionally, the proposal was considered at a public hearing on November 8, 1983, and interested persons were allowed through December 2 to file proposed findings and conclusions and written arguments or briefs based on evidence presented at the hearing. Only one brief was filed during this period, and arguments in it supported the findings recommended herein. Because evidence presented at the hearing indicates that the industry has an urgent need for the proposed changes in the program, it is hereby found and determined that a comment period of 15 days is sufficient and will effectuate the declared policy of the act.

Preliminary Statement.

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision on proposed amendment of the Potato Research and Promotion Plan. The plan provides for a nationally coordinated research and promotion program financed by an assessment on potatoes handled for food and seed.

On August 26, 1982, an amendment to the Potato Research and Promotion Act was approved (Pub. L. 97–244, 7 U.S.C. 2611–2627) which provides authority to change the maximum assessment rate and to add a public member on the Board. On November 29, 1983, the Act was amended again (Pub. L. 98–335) to reaffirm the validity of the existing Potato Research and Promotion Plan and to specify that the provisions relating to public representation in the Act are exempt from the requirement that producers must approve the provision in referendum.

The above notice of filing to this decision and of opportunity to file exceptions to it are issued pursuant to the provisions of the Potato Research and Promotion Act, and the applicable rules of practice and procedure governing proceedings under research, promotion and education programs (7 CFR Part 1200).

This proposed amendment was formulated on the record of a public hearing held in Denver, Colorado, on November 8, 1983. Notice of the hearing was published in the October 24, 1983, issue of the **Federal Register** (48 FR 49026). The notice set forth a proposed amendment submitted by the Board on behalf of potato producers in the 48 contiguous States of the United States.

Material issues

The material issues of record are as follows:

(1) Authorizing a change in the maximum assessment rate;

(2) Authorizing the addition of a public member on the Board and establishing qualifications for such membership;

(3) Making such changes in the plan as may be necessary to bring it into conformity with any amendments that may result from the hearing.

Findings and conclusions

The following findings and conclusions on the material issues are based on the record of hearing:

(1) The Potato Research and Promotion Plan (hereinafter referred to as the "plan") should be amended to authorize increasing the maximum allowable assessment which may be levied upon designated handlers under the program. This change may be effectuated by revising § 1207.342 "Assessments" to provide that the assessment rate shall not exceed one-

half of one percent of the immediate past 10 calendar year average U.S. price received for potatoes by growers as reported by the Department.

Several witnesses testified on the objectives and achievements of the plan. Since its inception in 1972, the annual assessment rate under the plan has been one cent per hundredweight, the maximum authorized. That rate has been used to finance a broad variety of potato promotion, market development, and research activities.

The Board's efforts focused on a nutritional education program designed to change consumers' preception of the potato. Television, print ads, and public relations activities were used to inform the public that the potato is relatively low in calories and an important source of essential vitamins and minerals. Other major activities highlighted in the record included a continuing program to stimulate sales by retailers through better merchandising techniques, and market development projects to boost shipments of U.S. seed potatoes and a variety of processed potato products to numerous foreign markets. Research projects included analyses of buyer attitudes and use patterns, and measurement of the potato's average nutrient values through a pioneer market basket survey procedure.

Record evidence indicates that the Board's overall program has been meeting its objective, with more people aware of the positive attributes of the potato and market opportunities expanding. But over time the Board encountered major problems as inflation sharply eroded the buying power of the Board's funds. Advertising costs in general more than doubled over the past decade, with television advertising rates up more than 170 percent during that period. Despite continuing economy measures, Board administrative costs also moved up sharply. With income stable but costs rising, it became necessary for the Board to gradually curtail major activities, thereby holding the program's effectiveness below its potential. The use of television ads was stopped in the mid-1970's, most print ads have not been used in recent years, and market development activities in other countries were not as broad as they otherwise could have been if more adequate funds had been available. Testimony introduced in November 1983 indicated that rising costs over the 1982 and 1983 seasons have further hampered the promotional efforts of the Board. Thus the need for the proposed assessment change has become increasingly urgent.

Without exception industry witnesses expressed the need to increase the rate of assessment. The Board requires significantly more income so that promotion activity can return to the level of ten years ago, and market development can be maintained and expanded. Therefore, the plan should be amended to allow the collection of increased funds. This would effectuate the policy of the Act, which is to provide for a broad, adequately financed program to improve the competitive position of potatoes.

The record indicates that the maximum assessment rate should not exceed one-half of one percent of the immediate past 10 calendar year U.S. average price received by growers as reported by the U.S. Department of Agriculture. This maximum rate would compensate for inflation which has adversely affected program operations since 1972, yet would not result in a burdensome rate of assessment. For example, during the 1982 fiscal period, the Board's maximum allowable rate of assessment would have been about 2.3 cents per hundredweight under the proposal, and at that rate revenues would have approximated $4 million. This would provide sufficient revenue to fund a program level similar to that undertaken in the early 1970's. Further, the proposal would automatically compensate for future inflation to some extent by tying rates of assessment to the value of potatoes, which is influenced by changes in the general economy.

(2) The plan should be amended to authorize public representation on the Board. To effectuate such a change, § 1207.320 of the current plan providing for the establishment and membership of the Board should be revised to allow the Board to add a public member and to indicate qualification criteria for the public member. Further, a new paragraph (d) should be added to § 1207.322 "Nominations and selection" to indicate criteria and procedures for selecting any public member; and § 1207.328 "Duties" should be revised to incorporate nominating the public member as a Board duty.

Record evidence indicates that public representation on the Board could improve the exchange of information and viewpoints between industry members and the public. While the influence of consumers is implicitly present in the deliberations of members, and all Board meetings are open to the public, the appointment of a public member would provide more direct communication between industry members and the public. The public member should have the same rights and privileges as other Board members, such as voting rights, reimbursement for expenses, and membership on committees and subcommittees of Board members.

Individuals selected from the public to serve on the Board should meet eligibility requirements specified by the Board in administrative rules issued with the approval of the Secretary. The record indicates that the public representative should not be permitted to have a direct financial interest in the commercial production, financing, buying, packing, or marketing of potatoes except as a consumer, nor be a director, officer, or employee of any firm so engaged. Also, the public representative should be able to devote sufficient time and indicate a willingness to attend Board meetings regularly and become familiar with the background and economics of the industry.

The record indicates that the public member should be nominated by the industry members of the Board at its first meeting following selection of members for a new term of office, and should serve on the Board until a successor is selected and has qualified.

(3) Certain conforming changes should also be made so that the plan, as amended, would be consistent. One such change, to add nominating the public member as a Board duty to § 1207.328 "Duties," has already been mentioned. All such changes should be incorporated in the recommended amendment of the plan.

Rulings on briefs of interested persons

At the end of the hearing, the Administrative Law Judge fixed December 2, 1983, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon evidence received at the hearing. One brief was filed by the Potato Board. Recommendations in it regarding the proposed changes in the plan are in accordance with hearing evidence and with the Act as amended. Accordingly they are adopted.

General findings

(1) The following findings are supplementary and in addition to the ones made in issuing the Plan. Except for those findings which may be in conflict with these findings, all such prior findings are hereby ratified and affirmed; (2) The amendment to the Plan will tend to effectuate the declared policy of the Act; (3) The following terms and conditions are recommended as the detailed means of carrying out the declared policy of the Act with respect

to a program of research and promotion for potatoes.

Recommended Amendment of the Potatoes Research and Promotion Plan

The following amendment of the Plan is recommended as the detailed means by which the foregoing conclusions may be carried out:

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

1. Section 1207.320 is amended by revising paragraphs (a), (b), and adding (e) to read:

§ 1207.320 Establishment and membership.

(a) There is hereby established a National Potato Promotion Board, hereinafter called the "Board," composed of producers and the public as selected by the Secretary. The public representative to the Board shall be nominated by Board members in such manner as recommended by the Board and approved by the Secretary. Producer members shall be selected from nominations submitted by producers in the various States or groups of States pursuant to § 1207.322.

(b) Producer membership on the Board shall be determined on the basis of the potato production set forth in the latest Crop Production Annual Summary Report issued by the Crop Reporting Board, U.S. Department of Agriculture. The public member shall have no direct financial interest in the commercial production or marketing of potatoes except as a consumer and shall not be a director, officer or employee of any firm so engaged. The basis for determining the membership of future boards shall be determined by the Secretary upon recommendation of the Board.

* * * * *

(e) In the event that producer Board members fail to nominate a public representative the Secretary may appoint such a member.

2. Section 1207.322 is amended as follows:

(1) Revise paragraph (a) to read as follows:

(a) A meeting or meetings of producers shall be held in each State or producing section to nominate producer members for the Board.

(2) Amend paragraphs (b) and (c) by inserting "producer" before "members" and "nominees."

(3) Add a new paragraph (d) to read as follows:

(d) The public member shall be nominated by the producer members of the Board. The Board shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and the Secretary approves.

3. In § 1207.328, paragraph (a) is amended by adding "to nominate the public member;" after "of Board members;".

4. In § 1207.342, paragraph (a) is revised to read:

§ 1207.342 Assessments.

(a) The funds to cover the Board's expenses shall be acquired by the levying of assessments upon handlers as designated in regulations issued by the Board. Such assessments shall be levied at a rate fixed by the Secretary which shall not exceed one-half of one per centum of the immediate past ten calendar year United States average price received for potatoes by growers as reported by the Department of Agriculture and not more than one such assessment may be collected on any potatoes.

* * * * *

Signed at Washington, D.C., on December 22, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-34481 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1722

Public Information; Appendix A—REA Bulletins REA Specification PE-20, Station Wire

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend 7 CFR 1722.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing a revised Bulletin 345–18, REA Specification for Station Wire, PE–20. This revision will incorporate the following changes: (1) Allow the use of a three-pair station wire design, (2) the use of coaxial capacitance test to control the insulated conductor diameter, (3) the manufacture of station wire products using an ivory and sand beige jacket, and (4) the updating of electric requirements to today's standards. These options along with their respective requirements will reflect station wire products that are being manufactured and used currently in rural telephone systems.

DATE: Public comments must be received by REA no later than February 28, 1984.

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: Joseph M. Flanigan, Acting Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8663. 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 7 CFR 1722.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing a revised Bulletin 345–18, REA Specification for Station Wire, PE–20. 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; (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. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans.

Copies of the document are 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

REA is proposing to revise Bulletin 345–18, REA Specification PE–20 for Station Wire, to allow the use of: (1) Three-pair design; (2) coaxial capacitance test to control insulated

conductor diameter; (3) ivory and sand beige jackets; and (4) the updating of electric requirements because a review of the current specification revealed that by not allowing these proposed options and their associated requirements, the specification would not reflect today's station wire being produced by manufacturers. These proposed options which are improvements in the production of station wires have been achieved through advancements in technologies.

This action would bring REA's specification into conformance with present-day station wires without affecting the current designs or manufacturing techniques of wire and cable manufacturers. This action would affect REA borrowers in that they will receive and install improved quality station wires without increased wire cost. Also these wires would provide better service performance which would result in reduced maintenance costs for our borrowers.

In view of the above, the Administrator is proposing to issue a revised Bulletin 345–18, REA Specification for Station Wire, PE–20.

List of Subjects in 7 CFR Part 1722

Loan programs—communications, Telecommunications.

Dated: December 23, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-34728 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

8 CFR Part 292

[AG Order No. 1042–83]

Requests for Recognition; Accreditation of Representatives

AGENCY: Department of Justice.

ACTION: Extension of comment period for notice of proposed rulemaking.

SUMMARY: The notice of proposed rulemaking, Attorney General Order No. 1037–83, published at 48 FR 53124 (November 25, 1983), set forth proposed revisions to the regulation governing requests for recognition of organizaions and applications to accredit representatives of such organizations to practice for the Immigration and Naturalization Service and the Board of Immigration Appeals. Public comments were invited by December 27, 1983. In the interest of obtaining the broadest spectrum of public comments and in response to a request for an extension of the period for public comments on the notice of rulemaking, the period for public comment is extended until January 27, 1984.

DATE: Written comments must be received on or before January 27, 1984.

ADDRESS: All written comments should be addressed to the Chairman, Board of Immigration Appeals, Department of Justice, 5203 Leesburg Pike, Suite 1609, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: David B. Holmes, Chief Attorney Examiner, Board of Immigration Appeals (tel. 703/756–6170).

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking published on November 25, 1983, provided that public comments should be received by December 27, 1983. The proposed regulations are designed to improve the procedures governing requests for recognition of organizations and the accreditation of representatives of recognized organizations to practice before the Immigration and Naturalization Service and the Board of Immigration Appeals. Over 200 organizations are now recognized under the provisions of 8 CFR Part 292, including many religious organizations. The publication of the notice of proposed rulemaking during the holiday season apparently has made it more difficult for some members of the public to file comments in a timely manner. In the interest of obtaining broad public comment, the time for public comment shall be extended to and including January 27, 1984.

Dated: December 27, 1983.

Edward C. Schmults,

Acting Attorney General.

[FR Doc. 83-34656 Filed 12-29-83; 8:45 am]

BILLING CODE 4410-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1632

Standard for the Flammability of Mattresses (and Mattress Pads); Proposed Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the flammability standard for mattresses and mattress pads to eliminate requirements for production testing of mattresses and mattress pads by manufacturers of those products. The amendment proposed below also makes other changes to the standard and implementing regulations to improve their practicability, clarity, and precision. The Commission is proposing to amend the standard and implementing regulations after considering comments received in response to an advance notice of proposed rulemaking published on June 10, 1982. The Commission believes that the amended standard proposed in this notice could reduce costs of testing and recordkeeping to manufacturers of products subject to the standard without decreasing resistance of mattresses or mattress pads to ignition from smoldering cigarettes.

DATES: (1) Written comments concerning the proposed amended standard should be received by the Commission not later than February 28, 1984. Comments received after this date will be considered to the extent practicable. (2) The Commission will provide opportunity for oral presentations of data, views, and arguments concerning the proposed amended standard during the comment period on a date to be announced.

ADDRESS: Comments on the proposed amended standard and requests to make oral presentations should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Five typewritten copies of all comments are requested. Received comments and other material relating to the proposed amendment of the standard will be available for inspection and copying in the Commission's public reading room, eighth floor, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: James Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6554.

SUPPLEMENTARY INFORMATION:

Background

The Standard for the Flammability of Matresses (and Mattress Pads) (16 CFR Part 1632) was issued in 1972 to protect the public from risks of death, personal injury, and property damage associated with fires which have resulted from ignition of mattresses by cigarettes.(1, 2)*

* Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street, NW., eighth floor, Washington, D.C. or by calling the Office of the Secretary at (301) 492–6800.

The standard was issued by the Department of Commerce under provisions of the Flammable Fabrics Act (FAA, 15 U.S.C. 1191 *et seq.*), and has been in effect since June 22, 1973. In 1973, responsibility for issuance and amendment of flammability standards under the FFA was transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2079(b)).

To comply with the standard, manufacturers of mattresses must perform prototype tests on each type of mattress which they produce. A prototype test involves the testing of a mattress design prior to production. Such testing must be repeated if any of the materials which influence resistance to ignition are changed. This is basically a one-time test which is performed prior to production to demonstrate that the materials and method of construction will resist cigarette ignition.

After successful completion of requirements for prototype testing, the standard requires manufacturers to group the mattresses which they manufacture into "production units," and to sample and test mattresses from each production unit. The standard requires manufacturers to perform production testing at specified intervals as long as a particular mattress type is manufactured. (1, 4)

The standard prescribes procedures for both prototype and production testing. Both prototype and production tests involve placement of lighted cigarettes at specified locations on the surface of a mattress. The standard sets forth pass/fail criteria for both types of tests.

Regulations implementing the standard require manufacturers to maintain records demonstrating compliance with the requirements for testing imposed by the standard. These records include written test results of both prototype and production tests, plus photographic evidence of each test result. (1, 4)

Statutory Provisions

In 1978, Congress enacted legislation (Pub. L. 97-631, 92 Stat. 3742, 15 U.S.C. 2076(m)) requiring the Commission to review existing standards and rules with a view toward elimination or modification of requirements in appropriate cases. In 1979, the Commission voted to include the mattress standard among the first three rules to be reviewed. (3)

After the Commission staff completed its review of the mattress standard, the Commission voted in 1980 to direct the staff to prepare appropriate documents to amend the standard and implementing regulations to reduce or simplify the requirements of the standard for sampling and testing; to reduce the recordkeeping requirements; to simplify the language used in the standard; and to make technical changes needed to improve the clarity and precision of the standard. (1)

Thereafter, Congress enacted the Consumer Product Safety Amendments of 1981 (Pub. L. 97-35, 95 Stat. 703, 752). This legislation amends section 4 of the FFA to provide that any proceeding for the issuance or amendment of a flammability standard shall be initiated by the publication of an advance notice of proposed rulemaking (ANPR) which must include information about the product, the risk of injury, and regulatory alternatives under consideration. These requirements now appear at section 4(g) of the FFA (15 U.S.C. 1193(g)).

In the **Federal Register** of June 10, 1982 (47 FR 25159), the Commission published the ANPR to initiate this proceeding for amendment of the mattress standard. (9) The content of the ANPR is summarized below, together with major issues raised by comments on the ANPR and the Commission's response to those comments.

If, after considering comments and other submissions received in response to an ANPR, the Commission decides to continue a proceeding for the issuance or amendment of a flammability standard, the Commission must publish a notice of proposed rulemaking in the **Federal Register**, solicit written comments on the proposal, and provide opportunity for oral presentations of data and views concerning the proposed standard or amendment. This notice proposes amendments to the mattress standard and solicits written comments and oral presentations on the proposal. An explanation of the provisions of the proposal and the text of the proposed amendments to the standard are set forth below.

If the Commission decides to issue final amendments to the standard after considering all written comments and oral presentations on the proposed amendments, and other relevant information, publication of a third notice in the **Federal Register** is now required by section 4 of the FFA.

Advance Notice of Proposed Rulemaking

As noted above, the Commission published an ANPR to begin a proceeding for amendment of the mattress standard in the **Federal Register** of June 10, 1982. In accordance with provisions of section 4(g) of the FFA (15 U.S.C. 1193(g)), the ANPR identified the nature of the risk of injury and the products with which the proceeding is concerned: risks of injury associated with fires resulting from accidental ignition of mattresses and mattress pads by smoldering cigarettes. (9)

As required by section 4(g) of the FFA, the ANPR also described the regulatory alternatives being considered by the Commission. Briefly summarized, the principal alternatives listed in the ANPR were:

1. *Modifying the existing provisions of the standard by eliminating requirements for production testing.* In its present form, the standard requires manufacturers of mattresses and mattress pads to perform prototype testing of each basic combination of materials and construction methods used to manufacture mattresses with acceptable results before beginning production for sale in commerce. After successful completion of prototype testing, the standard now requires manufacturers to select and test samples from regular production to assure that their products pass the test in the standard for resistance to cigarette ignition.

In the ANPR, the Commission stated that its review of the provisions of the standard indicates that once a mattress design has been qualified as acceptable by prototype testing, the likelihood is small that mattresses manufactured by using the same materials and methods of construction will yield failing results during production testing. The Commission estimated in the ANPR that removing requirements for production testing would eliminate approximately 80 percent of the testing and recordkeeping burden which the standard currently imposes on manufacturers of mattresses and mattress pads.

2. *Retaining requirements for some production testing but reducing the amount now required by the standard.* In its present form, the standard requires manufacturers of mattresses and mattress pads to perform at least one production test every three months, or a minimum of four tests each year. The Commission estimated in the ANPR that if the standard were amended to require a minimum of one production test each year by each manufacturer, approximately 60 percent of the testing and recordkeeping burden imposed on the industry by the standard could be eliminated.

3. *Removing all specific requirements for testing by manufacturers, but requiring each manufacturer to devise*

and implement a testing program to assure that its mattresses will resist ignition from smoldering cigarettes. If this alternative were adopted, manufacturers would be expected to perform tests to demonstrate that each new combination of materials and construction techniques will pass the test in the standard for resistance to cigarette ignition. Manufacturers would also be expected to perform enough testing to assure themselves that mattresses from current production will pass that test. However, the design and frequency of testing would be left to the individual manufacturer.

While the Commission anticipates that such an approach would result in some reduction of the testing and recordkeeping burdens to the industry, the ANPR stated that the reduction anticipated from this alternative would be smaller than that achieved by elimination or reduction of existing requirements for production testing described in the first two alternatives listed above.

4. *Allowing substitution of ticking materials under specified conditions without any requirement for new prototype testing.* In its present form, the standard requires that whenever a manufacturer changes the ticking (outermost layer of fabric) or any other material which influences ignition resistance of a mattress design, the manufacturer must perform new prototype qualification tests, unless the firm can demonstrate that the change will not reduce the ignition resistance of the mattress prototype. This provision of the standard has the effect of requiring a mattress manufacturer to perform new prototype tests every time the ticking fabric used for production of mattresses is changed.

To avoid the necessity of performing new prototype tests every time a manufacturer changes the ticking used for production of mattresses, Alternate Sampling Plan No. 4 (16 CFR 1632.13) was developed and approved. This alternate sampling plan was intended to provide a method of classifying ticking fabrics into categories which exhibit similar resistance to cigarette ignition. The purpose of this alternate sampling plan is to allow the substitution of ticking materials within the same category without the necessity for additional prototype testing.

Although provisions of Alternate Sampling Plan No. 4 are intended to allow substitution of ticking materials in certain circumstances without the requirement for new prototype qualification testing, the Commission has received information that in many cases, these provisions have proved to be unworkable. For this reason, the Commission announced in the ANPR that it was considering the development of new procedures to specify the conditions under which manufacturers could substitute one ticking material for another without performing new prototype tests.

5. *Allowing substitution of tape edge materials under specified conditions without additional prototype tests.* Among the component materials which affect the ability of a mattress to resist cigarette ignition are the binding tape or other materials used at the edge of the mattress. A policy statement, now codified at 16 CFR 1632.61, sets forth a procedure to demonstrate that the substitution of tape edge materials will not adversely influence ignition resistance. This procedure requires the construction of one prototype mattress using the substitute tape edge materials.

Provisions to allow substitution of one binding tape for another without additional prototype testing are a matter of concern to producers of tape edge materials who sell their products to mattress manufacturers. However, most producers of tape edge materials are not equipped to manufacturer prototype mattresses needed for the testing prescribed by § 1632.61.

In the ANPR, the Commission solicited suggestions from interested parties for modification or replacement of provisions of the existing policy statement to specify the conditions under which tape edge materials can be substituted without performing additional prototype test.

6. *Making technical modifications to the standard.* The ANPR also listed several changes contemplated by the Commission to various technical provisions of the standard concerning the applicability of the standard to decubitis mattress pads, one-of-a-kind mattresses, and to mattresses subject to requirements issued by the National Highway Transportation Safety Administration; to the definition of the term "mattress" contained in the standard; and to certain aspects of the apparatus, procedure, and criteria prescribed by the standard for testing. (9)

Section 4(g) of the FFA also requires the ANPR to include information about all standards which are known by the Commission to be relevant to the proceeding. In the ANPR, the Commission stated that the Standard for the Flammability of Mattresses (and Mattress Pads) (16 CFR Part 1632) is the only standard known by the Commission to be relevant to the proceeding which it initiated.

Additionally, section 4(g) of the FFA requires the Commission to summarize in the ANPR any voluntary standard under consideration by the Commission; to invite interested parties to submit an existing standard or portion of a standard as a proposed rule; and to invite all interested parties to submit a statement of intention to develop or modify a voluntary standard to address the risk of injury under consideration.

To comply fully with all requirements of section 4(g) of the FFA, the Commission stated in the ANPR that it was also considering the possibility of revoking the mattress standard and replacing it with a voluntary standard if it received one or more existing standards, or portions of such a standard, or statements of intent to modify or develop a voluntary standard which would be adequate to reduce or eliminate the risks of injury addressed by the standard and to achieve the same objective as the modifications of the standard described in the ANPR. (9)

The ANPR also solicited information relevant to a series of questions about costs of testing and recordkeeping required by existing provisions of the mattress standard, and estimates of anticipated savings which might result from the various alternatives for amendment of the standard under consideration. (9)

Comments on ANPR

In response to the ANPR, the Commission received ten comments. Commenters included one manufacturer of mattresses (10) and one distributor of mattress pads (17); one association of mattress manufacturers (16) and one association of manufacturers of component materials used in the production of mattresses of component materials used in the production of mattresses and mattress pads (19); two organizations concerned with fire safety (14, 18); a state governmental agency (13); one consumer (12); a university faculty member (15); and a commercial testing laboratory (11). The principal issues raised by the comments and the Commission's response to the comments are set forth below.

Voluntary Standards

Comments from a consumer (12), an organization concerned with fire safety (18), and a state governmental agency (13) opposed revocation of the standard and reliance on a voluntary standard to address risks of injury from fires associated with mattresses. The comment from the consumer expressed opposition to the principle of industry self-regulation in areas of safety and

health. (12) The state agency and the fire safety organization expressed the view that replacement of the existing mandatory standard with a voluntary standard would be detrimental to the interests of consumers. Both of these comments expressed doubt that compliance with a voluntary standard would be widespread throughout the mattress manufacturing industry. (18, 13) The state agency also observed that if the existing Federal standard were revoked to allow the industry to implement a voluntary standard, mattresses manufactured for sale in California would continue to be subject to provisions of a mandatory flammability standard enforced in that state. (13)

National Association of Bedding Manufacturers (NABM), an association of mattress manufacturers, stated that consideration of a voluntary standard does not appear to be necessary. (16)

No comments submitted any existing standard to address ignition of mattresses from smoldering cigarettes, or any portion of such a standard, for consideration by the Commission. No commenter submitted a statement of intent to develop or modify a voluntary standard to address hazards of fires resulting from ignition of mattresses by cigarettes.

Therefore, having solicited comments on the possibility of replacing the existing mandatory standard with a voluntary standard, as required by section 4(g) of the FFA, and having considered those comments, required by section 4(h) of the FFA, the Commission concludes that reliance on a voluntary standard is not likely to result in the elimination or reduction of risks of injury from fires associated with mattresses by cigarettes.

Sections 4(i) (2) and (3) of the FFA (15 U.S.C. 1193(i) (2) and (3)) require any notice proposing to issue or amend a flammability standard to include a discussion of the Commission's reasons for not publishing any existing standard or portion of a standard as the proposed regulation, and for not acting upon any statement of intent to develop or modify a voluntary standard to address the risk of injury described in the ANPR. As noted above, no existing standard, portion of a standard, or statement of intent to develop or modify a voluntary standard was submitted in response to the ANPR.

Nature of the Risk of Injury

Having considered and rejected the possibility that existing provisions of the mandatory standard might be replaced with a voluntary standard, the Commission now turns to comments concerning the nature of the risk of injury which the standard is intended to address.

Comments from the two associations concerned with fire safety state that ignition of mattresses by cigarettes is one of the leading causes of residential fires. (14, 18) One of these organizations, National Fire Protection Association (NFPA), states that it has investigated major fires throughout the United States, many of which have involved hotels and motels. NFPA states that in the past, many of its investigations of hotel and motel fires indicated that mattress flammability was a contributing factor. However, NFPA states that mattresses have not been identified as a contributing factor in recent studies of major fires conducted by that organization. NFPA suggests that the high rate of replacement of older pre-standard mattresses with new mattresses manufactured to comply with the standard may account in part for the reduced involvement of mattresses in hotel and motel fires. (14)

A comment from a mattress manufacturer recommends that the standard should require mattresses intended for use in hotels, motels, and institutions to resist open-flame ignition as well as ignition from cigarettes. (10) This comment states that mattresses which utilize polyurethane foam to meet the requirements of the standard for resistance to ignition by cigarettes will burn rapidly and release large amounts of heat and toxic gases if ignited by an open flame. This comment also states that technology is available to manufacture mattresses which will resist ignition from open-flame sources as well as cigarettes. (10)

After consideration of all information furnished by these commenters, and other data concerning the risks of injury associated with mattress flammability (some of which are summarized in the ANPR at 47 FR 25160–25161), the Commission concludes that the principal risks of death and injury from fires involving mattresses are those resulting from ignition of mattresses by cigarettes. (20) Among the Commission's current projects is the investigation of bedding fires to determine more precisely the role of both cigarettes and open-flame sources in such incidents.

However, in this proceeding for amendment of the mattress standard, the Commission concludes that the risks of injury addressed by the standard shall continue to be limited to those associated with fires resulting from ignition of mattresses by cigarettes.

Regulatory Alternatives

Among the regulatory alternatives discussed in the ANPR were several intended to reduce the amount of production testing required by the standard or to eliminate the necessity for production testing altogether.

Comments from NFPA and the state governmental agency express general agreement with reduction or elimination of any requirements for production testing and associated recordkeeping requirements which are not needed to assure that mattresses will resist cigarette ignition. (14, 13) Comments from NABM and Flexibile Polyurethane Foam Manufacturers Association favor elimination of all requirements for production testing. (16, 19)

Comments from a commercial testing laboratory (11), a university faculty member (15), and the other fire safety organization, Citizens Committee for Fire Protection (CCFP) (18), oppose any modification of existing provisions of the standard which require production testing.

Among the major issues raised by comments favoring and an opposing amendment of the standard to reduce or eliminate requirements for production testing are:

(1) The extent to which mattresses now being manufactured meet the test in the standard for resistance to cigarette ignition; and

(2) Whether reduction or elimination of requirements for production testing would lead to a significant increase in the number of mattresses which would fail that test.

Ignition Resistance of Current Production

In the ANPR, the Commission stated that while the current requirements of the standard for both prototype and production testing will provide a high degree of assurance that mattresses will resist cigarette ignition, the standard may require more testing than is necessary to achieve that end. The ANPR also stated that the Commission's review of the provisions of the standard indicated that once a mattress design is accepted by prototype testing, the likelihood is small that mattresses manufactured with the same materials and methods of construction will fail the test in the standard. (9)

The comment from NABM submitted information concerning testing of mattresses obtained from mattress manufacturers to support the proposition that once qualified by prototype testing, mattresses of a given design will consistently pass the test in

the standard for resistance to cigarette ignition. (16)

The test data submitted by NABM were obtained from four large producers of mattresses and from eleven small manufacturers, and related to testing conducted by those firms during the years 1977, 1978, and 1979. (16)

The information furnished by NABM shows that during each of those three years, the fifteen firms collectively manufactured about 6,300 production units of mattresses, and subjected all of those units to production testing. All production units manufactured by all of the firms supplying test data were accepted after production testing. The NABM comment states that in a few instances, a second test was required because of the failure of a single cigarette test location during the first test. (16) The standard provides that the production unit is acceptable if no cigarette test location results in failure on the second test. (See existing § 1632.4(b)(2)(i)(B)).

Comments from the state agency and the Citizens Committee for Fire Protection (CCFP) question whether the Commission has sufficient information about the extent to which current mattresses will pass the test in the standard to justify modification or elimination of requirements for production testing. (13,18) The comment from CCFP observes that in the ANPR, the Commission cited results of its testing for compliance purposes during 1976 and 1977 to support the proposition that almost all mattresses pass the test in the standard. CCFP states that the results of testing cited in the ANPR were five years old, and obtained during a period when the Commission was actively inspecting mattress manufacturers to determine compliance with the standard. This comment suggests that because the number of inspections to determine compliance with the standard has decreased in the year since 1977, the test results relied on by the Commission may not be representative of current production. (18)

The comment from CCFP also criticized the information about testing of mattresses contained in the NABM comment because:

(1) NABM's comment indicates that the four large firms were not selected at random;

(2) Five of 16 small manufacturers selected at random by NABM did not respond to that organization's request for test data; and

(3) Most of the testing reported by NABM was conducted by the four large manufacturers. (18)

In response to the concerns expressed by CCFP and the state agency about the age and adequacy of the Commission's test data, the Commission collected a sample in 1982 of mattresses manufactured by each of 25 firms throughout the United States. When tested in accordance with the standard, 24 of the mattresses passed. (24) Subsequent investigation disclosed that the failing mattress was a renovated mattress which had not been qualified by prototype testing because the renovating firm mistakenly believed that it was not subject to the requirements of the standard. (24)

In a separate investigation, another mattress renovated by a different firm was tested and failed the test in the standard. This renovated mattress also had not been qualified by prototype testing. (24)

During 1983, the State of California also tested mattresses manufactured for sale in that state for compliance with the standard. That state tested samples of 52 types of mattresses. Forty-nine of these mattresses passed the test in the standard. A state agency investigated the firms which manufactured the three mattress types which yielded test failures. One of these firms had conducted all of the prototype and production testing specified in the standard. The investigating agency concluded that the failing mattress produced by this firm was a "fluke," and not representative of the firm's production.

In the other two cases, the investigating agency concluded that the test failures resulted from the use of cotton batting material which had not been adequately treated with flame retardant chemicals. Both manufacturers claimed that the cotton batting materials were intended for use in box springs—products which are not subject to the mattress standard—but had erroneously been used in the production of mattresses. Neither of these firms had records of production testing. (24)

In summary, results of testing by the Commission and the state of California show that 78 mattresses manufactured by more than 50 different firms were tested in accordance with the standard. Seventy-three of these mattresses (94 percent) passed the test in the standard. Two of the mattresses which yielded failing test results had not been qualified by the prototype testing required by the standard. Another failure was considered to be an unrepresentative "fluke." The remaining two test failures may or may not have been detected had production testing been conducted, depending upon the reason for the failure. (24)

After consideration of all available information concerning results of testing under the standard, the Commission concludes that substantially all mattresses offered for sale to consumers will meet the test in the standard. (20, 24)

Probable Effect of Modifying or Eliminating Requirements for Production Testing

Comments from the commerical testing laboratory and CCFP express the view that prototype testing by itself will not provide adequate assurance that mattresses will resist cigarette ignition. Both comments state that production testing is necessary to identify any errors in the manufacturing process or variations in materials that may affect mattress flammability. (11,18)

Comments from the university faculty member and CCFP also question whether quality control procedures used by mattress manufacturers—particularly smaller firms—would be adequate to identify mattresses which present a risk of ignition from cigarettes if existing requirements for production testing were modified or removed from the standard. (15,18)

The Commission observes that when the standard was being developed, one of the major concerns was that the component materials used in the construction of mattresses might, on occassion, vary from one lot or shipment to another. At that time, it was estimated that on the average, manufacturers of mattresses purchased component materials in quantities sufficient for approximately three months of production. To identify variations in component materials from one lot to another as quickly as possible, the standard specified a minimum of one production test every 90 calendar days. (20,25)

After consideration of all available test data, summarized above, the Commission affirms the conclusion expressed in the ANPR that when a mattress design is qualified by prototype testing under the standard, the likelihood is great that mattresses manufactured with the same materials and construction methods will pass the test in the standard. The Commission also believes that the information concerning results of production testing indicates that any variations which may exist in component materials from one lot to another do not appear to significantly affect the resistance to cigarette ignition of mattresses constructed from those materials. (20,25)

The Commission is aware that small manufacturers may not use the same

quality control procedures as larger manufacturers. However, the Commission does not believe that these differences in quality control procedures will adversely affect the ability of mattresses to withstand ignition from cigarettes if requirements for production testing are modified or eliminated.

Extent of the Burden Imposed by the Standard

The comment from CCFP also opposes amendment of the standard because economic data cited by the ANPR do not indicate that the standard imposes an unduly severe cost burden on the industry. This comment expresses the view that while the standard does place some economic burden on the industry, no evidence indicates that this burden is out of proportion to the standard's benefit to the public. (18)

As stated in the ANPR, the Commission is considering amendment of the standard "to eliminate some requirements which may impose costs on mattress manufacturers, but which may not be needed to protect the public from unreasonable risks of fire from ignition of mattresses by smoldering cigarettes." (See 48 FR 25161.)

While the Commission agrees with the view expressed in this comment that the costs imposed on the industry are not unduly burdensome or severe, it observes that the only purpose of any standard issued under the Flammable Fabrics Act is to prevent the "unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage." (See section 4(b), 15 U.S.C. 1193(b)).

To the extent that the standard may contain provisions which are not needed to address any such unreasonable reconsideration is appropriate, even though the burden to industry may not be severe. (20,30)

Elimination of Production Testing

Having considered comments favoring and opposing modification of the requirements in the standard for production testing, the Commission concludes that proposal of some change to those provisions is warranted. As indicated above, two commenters express general support for such modification (14,13); two commenters recommend elimination of all requirements for production testing. (16,19)

The comment from NABM urging elimination of all requirements for production testing states that data concerning results of production testing by fifteen mattress manufacturers submitted by that group, summarized above, provide strong evidence that requirements for production testing could be eliminated without adversely affecting resistance of mattresses to cigarette ignition. (16)

This comment opposes modification of the standard in a manner which would require each mattress manufacturer to design and implement its own testing program to assure that mattresses will resist cigarette ignition. The comment asserts that such a change would create apprehension and confusion among mattress manufacturers about the amount of testing which would be acceptable, and could be expected to result in many requests to the Commission staff for guidance and clarification.

The comment from NABM also opposes reduction of the frequency of production tests to a minimum of one per year by each manufacturer because this change would not result in as great a reduction of burden to the industry as elimination of all requirements for production testing. (16)

A comment from the Flexible Polyurethane Foam Manufacturers Association expresses agreement with NABM that the information concerning results of production testing furnished by NABM justifies removing all requirements for production testing from the standard. (19)

After considering all available information concerning resistance to cigarette ignition of mattresses now offered for sale to consumers, including the test data from NABM (16), and results of testing conducted by the Commission's laboratory and by the state of California (24), the Commission concludes that proposal of an amendment to remove all requirements for production testing from the standard is warranted.

The amended standard proposed below would require each "manufacturer" of mattresses or mattress pads to qualify each mattress prototype and each mattress pad prototype by the testing specified in proposed §§ 1632.4 and 1632.5 before mattresses or mattress pads based on that prototype could be introduced into commerce or sold in commerce.

Proposed § 1632.1(i) defines the term "manufacturer" to mean "an individual plant or factory at which mattresses and/or mattress pads are produced or assembled."

If issued on a final basis, the proposed definition of the term "manufacturer" would require each factory or plant to perform all of the testing required to qualify the design of the products which it manufactures. In its present form, the standard allows two or more production facilities using the same mattress prototype or mattress pad prototype to distribute the required prototype testing in such a manner that not all plants are required to perform all of the testing required to qualify any given prototype. (See existing § 1632.4(b)(2)(i)(A) of the standard.)

If the amended standard proposed below were issued on a final basis, provisions of the existing standard which allow "pooling" of prototype testing by two or more plants would be eliminated. Because all requirements for production testing have been removed from the amended standard proposed below, the Commission believes that it is reasonable to require each production facility to perform all required prototype qualification testing for the products which that establishment manufactures.

If the standard is amended to eliminate provisions applicable to "pooling" of prototype testing, those plants which previously relied on "pooled" prototype tests will be required to perform some additional prototype testing to comply with provisions of §§ 1632.1(i) and 1632.3(d), published below. However, with the elimination of requirements for production testing, the net effect of the amendments proposed below would be a reduction in the amount of testing required by the standard for all manufacturers, including those plants which had "pooled" prototype testing under existing provisions of the standard.

As noted in the ANPR, the existing requirements of the standard for production testing are part of a "basic sampling plan" in the standard. In addition to that basic sampling plan, the standard also states at § 1632.4(b)(1) that the Commission may approve "alternate sampling plans." To date the Commission has approved four such alternate sampling plans, which are codified at 16 CFR 1632.11, 1632.12, 1632.14, and 1632.15. Because these alternate sampling plans are concerned only with selection of samples for production testing, they do not appear in the amended standard proposed below.

Substitution of Ticking

As noted above, the ANPR announced that the Commission was considering amendment of the standard to revise existing provisions specifying conditions under which one ticking material may be substituted for another without the necessity of new prototype testing. (9)

The comment from NABM included a recommended test procedure for classifying ticking material, and suggested provisions to allow substitution of certain classes of ticking

materials without any requirement for additional prototype testing. (16)

The classification test procedure submitted by NABM determines resistance to cigarette ignition of a ticking material when tested over cotton felt and when tested over a layer of polyurethane foam on top of cotton felt. This test categorizes ticking fabrics into one of three classes:

Class A materials are those which act as barriers against cigarette ignition. These fabrics act to prevent ignition of other materials in the mattress.

Class B materials are those which have no effect on cigarette ignition of a mattress. They neither improve nor decrease resistance of the mattress to cigarette ignition.

Class C materials may contribute in some manner to ignition of a mattress from a lighted cigarette.

The test to categorize ticking materials can be performed by manufacturers of mattresses, as well as by firms which manufacture ticking materials for use in the production of mattresses.

The comment from NABM suggested provisions to allow substitution of any Class A ticking material on any mattress prototype qualified by prototype testing without requirements for any new prototype testing.

If a proposed substitute ticking material yields Class B results, the comment from NABM suggests that it be allowed for use on any mattress prototype originally qualified by prototype testing with another Class B or any Class C ticking material. However, if the mattress prototype was constructed with a Class A ticking at the time it was originally subjected to prototype testing, new prototype tests would be required before a Class B ticking could be substituted.

If a proposed substitute ticking yields Class C results, it could only be used on a mattress prototype originally qualified by prototype testing with that particular Class C ticking material. However, in the case of a mattress prototype constructed with a Class C ticking material at the time of original prototype qualification, any Class A or Class B ticking material could be substituted without the necessity for new prototype testing.

The Commission has considered the suggested ticking classification test and procedure to allow substitution of ticking without additional prototype tests; supporting data submitted by NABM (16); and an evaluation of the test and substitution procedure by the Commission's engineering staff and by the National Bureau of Standards. (29) The Commission believes that the ticking classification test and procedures to allow substitution of ticking materials recommended by NABM may overcome the technical and practical problems encountered with existing provisions of the standard governing substitution of ticking materials.

Therefore, procedures for testing to classify ticking materials and provisions for substitution of ticking materials without additional prototype testing based on the recommendations in the NABM comment are included in the proposed amendment of the standard at § 1632.6.

Substitution of Tape Edges and Other Materials

One area critical to the ability of a mattress to resist cigarette ignition is located at the junction of the edge of each surface intended for sleeping and the sides of the mattress. In the production of mattresses, binding tapes used at this location are changed frequently.

Existing provisions of the standard, now codified at 16 CFR 1632.61, set forth a test to demonstrate that substitution of one tape edge material for another will not adversely affect ignition resistance of the mattress, thereby allowing the use of the substitute tape edge material without the necessity for additional prototype testing.

However, the test at § 1632.61 is not suitable for use by firms which manufacture tape edge materials because it must be performed on a prototype mattress. Most manufacturers of tape edge materials are not equipped to manufacture the prototype mattress required to perform that test.

For this reason, the ANPR solicited suggestions for an alternate procedure to demonstrate equivalent performance of tape edge materials.

Included in the comment from NABM was a suggested procedure to replace existing provisions of § 1632.61 to demonstrate that substitution of tape edge material will not adversely affect resistance to cigarette ignition. (16)

Preliminary review of this portion of the NABM comment by the Commission's technical staff indicated that evaluation of the recommended procedure would be a complex and time-consuming project. (20, 23) After consideration of the amounts of resources which would be required for such an undertaking, the Commission has decided instead to propose retention of existing procedures applicable to substitution of tape edge materials, with some editorial revision. The tape edge substitution provisions appear in § 1632.7 of the amended standard proposed below.

The comment from NABM also recommended addition to the standard of a test to demonstrate that substitution of backing materials used for quilted tickings will not decrease resistance to cigarette ignition, and may be done without any requirement for additional prototype testing. (16)

After the Commission staff evaluated the test suggested by NABM for classification of ticking materials, the staff concluded that the same procedure could be used to classify quilted tickings constructed with different backing materials. The staff observed that quilted ticking materials constructed with different backing materials, but categorized within the same ticking class, may be substituted for one another under the same conditions as any other ticking materials used in the production of mattresses. (29) For this reason, the Commission believes that a separate test for substitution of quilted tickings with different backing materials is not needed, and has not included the suggested test in the amendments to the standard proposed below.

Products Subject to the Standard

In the ANPR, the Commission stated that it was considering several changes to provisions in the standard which describe the various products which are either subject to, or exempted from, its requirements.

These provisions include the definition of the term "mattress" in § 1632.1(a) of the standard. In its present form, this section contains language which excludes "liquid and gaseous filled tickings such as water beds" from the definition of the term "mattress" for purposes of the standard.

The ANPR noted that since the mattress standard was issued in 1972, a new type of product has been developed which combines the traditional mattress and the water bed by utilizing a water- or air-filled core covered with upholstery and ticking materials. The ANPR proposed to change the standard's definition of the term "mattress" to include this new product. (9)

Comments from NABM and the state agency favored such a change; no commenters were opposed. (16, 13) The change is incorporated in § 1632.1(a) of the amended standard proposed below.

The existing language of the standard defining the term "mattress" lists examples of several products which are "mattresses" for purposes of the standard's coverage.

The comment from the state agency also recommended revision of § 1632.1(a) to include "futons" in the list of products which fall within the standard's definition of the term "mattress." (13) A "futon" is a flexible sleeping mat consisting of a ticking which is filled with resilient material, most often cotton batting. Because a "futon" has all of the elements of the standard's definition of the term "mattress," futons are included in the list of the different kinds of mattresses enumerated in § 1632.1(a) of the amendments proposed below. (27) Additionally, a definition of the term "futon" has been added to the glossary of terms at proposed § 1632.8(o).

Decubitus and Absorbent Mattress Pads

In the ANPR the Commission noted that an earlier **Federal Register** notice published on July 27, 1979 (44 FR 44175) had proposed to exempt all decubitus and absorbent mattress pads from the requirements of the standard for testing, and to require labeling of all such pads to state that they may be ignited by cigarettes. (9)

(A decubitus pad is used for the prevention and healing of bed sores. An absorbent pad is designed for use by people suffering from urinary incontinence.)

In the ANPR, the Commission stated that it was considering withdrawal of the proposal to exempt decubitus and absorbent pads if requirements for production testing were eliminated from the standard. If that action were taken, decubitus and absorbent pads would remain subject to requirements of the standard for prototype testing. The ANPR expressed the Commission's expectation that requirements for prototype testing should not be burdensome for manufacturers of decubitus and absorbent pads because the designs of these products are not changed frequently. (9)

Comments from the state agency and Flexible Polyurethane Foam Manufacturers Association (FPFMA) expressed general agreement with retaining the standard's coverage of decubitus and absorbent pads. (13, 19)

The comment from FPFMA also contained recommendations concerning various aspects of the testing and labeling of decubitus pads.

The comment from FPFMA observes that decubitus pads are usually sold without a permanent cover. For that reason, FPFMA recommended that such pads should be tested without a cover, and covered with sheets. (19)

Existing provisions of the standard specify that mattress pads shall be tested by placing cigarettes on the bare surface of the pad, and between two sheets on the surface of the pad. These provisions remain unchanged in the amended standard proposed below, and are consistent with the recommendation in the comment from FPFMA.

FPFMA also requested specific provisions for testing convoluted (egg crate) decubitus pads made from polyurethane foam.

In 1975, the Commission considered the issue of whether an uncovered convoluted foam decubitus pad was either a "mattress" or a "mattress pad" as those terms are defined in the standard. The Commission concluded that such a product was not a mattress, because that product is defined in § 1632.1(a) as a "ticking" filled with resilient material; and not a "mattress pad" because that term is defined in the glossary of terms at § 1632.6(p) of the existing standard as a "thin, *flat* pad." [Emphasis added] (31)

In the amendments proposed below, specific language has been added to the definition of the term "mattress pad" at § 1632.1(b) to exclude mattress pads made from uncovered convoluted foam.

The comment from FPFMA also requested special provisions concerning the labeling of decubitus pads made from uncovered polyurethane foam. The Commission is not aware of any decubitus pads made from uncovered polyurethane foam other than those which are convoluted, and for that reason, not subject to the standard. (27) Consequently, the Commission has not proposed the specific provisions for testing and labeling of convoluted decubitus foam pads requested in the comment from FPFMA because these products would not be subject to the standard under the terms of the amendments proposed below.

Disposable Absorbent Pads

A comment from The Procter & Gamble Company requests the Commission to exempt disposable absorbent mattress pads which are sold to hospitals for use by incontinent patients from the requirements of the standard. (17)

This comment states that these pads are classified as medical devices by provisions of 21 CFR 880.6060, and as such, are not subject to the Commission's jurisdiction under the Flammable Fabrics Act.

The comment also argues that because the products are not sold to individuals for use in the home, they are not products of "interior furnishing" as that term is defined in section 2(e) of the FFA (15 U.S.C. 1191(e)).

The Commission observes that no provision of the FFA excludes a fabric, related material, or product of wearing apparel or interior furnishing from regulation under the FFA because it is a "medical device." The Commission also observes that section 2(e) of the FFA defines the term "interior furnishing" to mean:

> Any type of furnishing made in whole or in part of fabric or related material and *intended for use* or which may reasonably be expected to be used, in homes, offices, *or other places of* assembly or *accommodation*. [Emphasis added]

The Commission notes that this language does not require that a product of interior furnishing must be sold directly to consumers, and interprets the phrase "other places of accommodation" to include a hospital. For this reason, the Commission concludes that the term "interior furnishing" is applicable to many products which are not sold directly to consumers for use in their homes, including mattresses and mattress pads sold to hospitals for use by patients.

The comment from Procter & Gamble also claims that as a medical device, a disposable absorbent pad is subject to requirements issued by the Food and Drug Administration and that the performance and recordkeeping requirements of the mattress standard, if applicable to these products, would be "duplicative." (17) However, the comment does not cite any specific requirements administered by the FDA intended to address the flammability of such mattress pads, and the Commission is not aware of any such requirements.

Finally, the comment from Procter & Gamble argues that the injury information which led to the issuance of the mattress standard did not include incidents involving disposable absorbent pads used in hospitals. (17) However, the comment does not explain why hospital patients using such pads would not be exposed to the risk of fires which might result from ignition of the mattress pad by a smoldering cigarette. In the absence of information demonstrating that patients using disposable absorbent pads are unlikely to be exposed to the risks of injury which the standard is intended to address, the Commission declines to exempt the products which are the subject of this comment from the requirements of the standard.

If the Commission issues final amendments to the standard to eliminate requirements for production testing, the Commission will also withdraw the proposal to exempt decubitus and absorbent pads from the requirements of the standard.

Products Exempted From the Standard

In its present form, the standard contains language at § 1632.2(c) which excludes mattresses which are subject to Motor Vehicle Safety Standard No. 302 (MVSS 302) administered by the National Highway Traffic Safety Administration from the requirements of the FFA standard. This language was included in the standard in the belief that MVSS 302 was applicable to assembled mattresses as finished products. However, after issuance of the mattress standard under the FFA, the Commission has received information that MVSS 302 applies only to mattress tickings and not to the assembled mattress. (9,27)

Because no mattresses are subject to MVSS 302, the ANPR stated that the Commission was considering elimination of the exemption in existing § 1632.2(c). The comment from NABM supported this change (16); no commenters were opposed. In the amended standard proposed below, the language exempting mattresses subject to MVSS 302 has been eliminated.

In its present form, the standard contains language at § 1632.2(d) to exempt "one of a kind mattresses, such as nonstandard sizes or shapes . . . pursuant to rules and regulations established by the Consumer Product Safety Commission."

In the ANPR, the Commission observed that other provisions of the standard state that results of prototype testing are applicable to all mattresses made from the same materials and with the same methods of construction as the prototype tested, notwithstanding any differences of size which may exist among those mattresses. See §§ 1632.1(h), and 1632.4(b)(2)(i)(A)(5).

Additionally, regulations issued by the Commission at § 1632.31(i) limit the "one-of-a-kind" exemption to mattresses which are manufactured to the written prescription of a physician for the treatment or management of a specific patient's disease or medical condition. Those regulations make no provision of exempting mattresses because of their size or shape.

In the ANPR, the Commission stated that it was considering revision of § 1632.2(d) to eliminate reference to "nonstandard sizes and shapes" and to make that section consistent with other provisions of the standard defining the term "mattress prototype" and establishing requirements for prototype testing. Comments from the state agency and NABM support such a change (13,16); no commenters were opposed. The revised language exempting one-of-a-kind mattresses and mattress pads from the requirements of the standard is in § 1632.2(b)(4) of the amended standard proposed below. The regulation which sets forth the requirements for the one-of-a-kind exemption is recodified at § 1632.31(f) in the proposed amendments.

Test Apparatus

The standard requires the use of a platform, bench, or similar item to support the mattress in a flat horizontal position during testing. Existing provision of § 1632.4(a) state that when testing thin, flexible mattresses and mattress pads, the top surface of the support system must be "nonmetallic."

Experience gained from testing thin mattresses and mattress pads indicates that results may vary depending upon the specific type of nonmetallic surface used on the support system. (9,27)

In the ANPR, the Commission announced that it was considering amendment of those provisions which prescribe the test apparatus to specify a particular kind of nonmetallic surface to be used when testing thin mattresses and mattress pads. No comments were received on this issue.

In the amended standard proposed below, § 1632.4(a)(1)(ii) states that a glass fiberboard approximately one inch thick with a specified thermal conductivity shall be used for testing thin mattresses and mattress pads.

The standard requires that mattresses shall be tested by placing cigarettes on the uncovered surface of the mattress and by placing cigarettes between two sheets covering the mattress.

Existing provisions of the standard require that the sheets used for testing mattresses must be made from 100 percent cotton fiber.

The comment from Flexible Polyurethane Foam Manufacturers Association requested proposal of an amendment to the standard which would allow use of sheets made from a blend of 50 percent cotton and 50 percent polyester fibers. This comment states that use of 100 percent cotton sheets is becoming increasingly less frequent, and that a test using cotton/polyester blend sheets would be more representative of actual use conditions. (19)

Although this comment claims that allowing use of polyester/cotton blend sheets would not materially affect the stringency of the test in the standard, results of testing conducted by the National Bureau of Standards do not support this contention. (27) If requirements for production testing are eliminated from the standard, the number of sheets required for testing will be considerably reduced. (20) For these reasons, the Commission has not proposed the amendment requested in the comment from FPFMA.

Test Procedures

Existing provisions in § 1632.4(c) of the standard specify that a mattress shall be conditioned at a specified temperature and relative humidity for 48 hours before prototype testing. Existing § 1632.4(d) provides that if prototype testing is not conducted in the conditioning room, "the mattress shall be tested within 1 hour after removal from the conditioning room."

The purpose of these provisions is to allow prototype testing to be performed outside the conditioning room if such testing is started without delay and completed within a reasonable period of time. (9,27)

In the ANPR, the Commission observed that although the test may be initiated promptly after the mattress is removed from the conditioning room, in some cases the test may not be completed in one hour. To carry out the intent of the provisions of existing § 1632.4(d) and to express the requirements more precisely, the Commission stated in the ANPR that it was considering a revision of the standard to provide that testing must be initiated within 10 minutes after the mattress is taken from the conditioning room and completed within a specified period of time, such as two hours.

The comment from NABM supported inclusion of a two-hour limit within which the test must be completed, but objected to a requirement that the test be started within ten minutes after the mattress is removed from the conditioning room. This comment expressed concern that if the test operator were unavoidably prevented from starting the test until twelve minutes after the mattress had been taken from the conditioning room, the mattress would be subject to requirements for additional conditioning, thereby adding to the time and costs required for testing. (16)

Although NABM expressed the view that the time at which the test is initiated is irrelevant as long as it is completed within two hours, the Commission believes that the primary purpose of existing § 1632.4(d) is to insure that testing performed outside of the conditioning room should begin without delay. (20, 27) The Commission also believes that more than two hours may be required to complete a test, particularly if a cigarette locations are tested one at a time, allowing each cigarette to burn completely before the next one is ignited. (20)

For these reasons, § 1632.4(d)(1) of the amended standard proposed below provides that if the mattress is not tested in the conditioning room, the test must begin within ten minutes after it is removed from the conditioning room.

Experience gained in testing under the standard indicates that occasionally cigarettes will pop out of position during test of mattresses with corded tufts. In its present form, the standard makes no provision to deal with this problem. In the ANPR, the Commission stated that it was considering addition of language to the test procedure to require retesting if a cigarette does not remain at any given test location on the mattress until it has burned its entire length. (9)

Comments from NABM and the state agency expressed general agreement with the addition of language to specify retesting at any given test location where a cigarette does not remain on the mattress until it has burned its entire length. (13, 16) The comment from NABM recommended that a freshly lit cigarette should be placed at the same test location as the original cigarette. (16) While the Commission believes that provisions to specify the location for placement of the second cigarette would be desirable, the Commission perceives two problems with the recommendation from NABM. First, if a second cigarette were placed at the original test location, the materials of the mattresss would be altered or affected at that location to some extent from the charring produced by the first cigarette. Second, the Commission believes that distinguishing the char length of the second cigarette from that of the first might be difficult. (27) For that reason, § 1632.4(d)(1)(iii) of the amended standard proposed below provides that if a cigarette pops out of position when tested on a tuft, or rolls of a test location, the test must be repeated with a freshly lit cigarette on a different location of the same type.

Language of § 1632.3(b) of the standard in its present form states that "individual cigarette test locations pass the test if the char length on *the mattress surface* is not more than 5.1 cm (2 in.) in any direction from the nearest point of the cigarette." [Emphasis added]

In the ANPR, the Commission expressed the view that the drafters of the standard intended that char length should be measured in any direction from the nearest point of the cigarette, including downward into the mattress in the case of burns which penetrate through the mattress surface. For that reason, the ANPR announced that the Commission was considering elimination of the words "on the mattress surface" from the provisions of the standard prescribing measurement of char length. (9) Comments from NABM and the state agnecy expressed support for such a change (13, 16); no commenters were opposed. This change appears in § 1632.3(b) of the amended standard proposed below.

Potential Costs and Benefits of Proposed Amended Standard

Section 4(i)(1) of the FFA (15 U.S.C. 1193(i)(1)) provides that in order to propose issuance or amendment of a flammability standard, the Commission must include in the notice of proposal a preliminary description of potential benefits and potential costs of the proposed regulation, and a narrative description of those benefits and costs which cannot be quantified.

In the ANPR, the Commission stated that if the requirements for production testing were removed from the standard, the testing and recordkeeping burden which the standard currently imposes on the regulated industry would be reduced by approximately 80 percent. (9)

The comment from NABM estimated that the average cost to all manufacturers of a single production test under the mattress standard is between $150 and $160. (16) On the basis of information obtained from mattress manufacturers, NABM estimates that each year the mattress industry collectively performs a total of more than 20,000 production tests in accordance with existing requirements of the standard. (16) NABM estimates that the aggregate cost of production testing to all manufacturers is approximately $3 million each year. (16)

To place the annual cost of production testing in perspective, NABM states further that according to the Annual Survey of Manufacturers for the year 1980, conducted by the Bureau of the Census, new capital expenditures for the entire bedding industry were slightly more than $23 million that year. Thus, the annual cost of production testing is approximately 13 percent of new capital expenditures in 1980. (16)

After considering all available information, the Commission calculates that if the standard were amended to eliminate requirements for production testing, total savings to all mattress manufacturers of as much as $2.4 million may be achieved each year. As noted above, the Commission has reason to believe that elimination of requirements for production testing will not have a significant adverse affect on resistance to cigarette ignition of mattresses offered for sale to consumers.

An additional but unquantifiable benefit of the amended standard proposed below is that it is shorter and easier to understand than the standard in its present form.

Impact on Small Business

In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission hereby certifies that the amended standard proposed below, if issued on a final basis will not have a significant economic impact on a substantial number of small entities, including small businesses. The reasons for this certification are set forth below.

In the ANPR, the Commission estimated that more than 800 firms manufacture mattresses, and that approximately 60 percent of them fell within the category of "small business" as it applies to the mattress industry. The comment from NABM states that the total number of mattress manufacturers is 962, and that 607 of these firms (63 percent) have fewer than 20 employees and for that reason are small businesses. (16)

As noted above, a major result of the amended standard proposed below would be the elimination of production testing. Under existing provisions of the standard, any firm engaged in the manufacture of mattresses, regardless of how few mattresses it manufactures, must perform at least four production tests each year. If the cost of each such test were $150, as estimated by NABM, amendment of the standard to eliminate all requirements for production testing would result in a savings of $600 per year for those small businesses with the lowest volume of production. However, other information available to the Commission indicates that the cost of a production test for some small manufacturers may not be as much as the average cost calculated by NABM. This information suggests that the total savings which might result to very low volume manufacturers may be closer to $300 per year if requirements for production testing were eliminated. (30)

While the elimination of requirements for production testing and several other changes discussed above are expected to have a beneficial economic effect on all mattress manufacturers, including those which are small businesses, the Commission does not expect that impact to be significant for the firms which are small businesses. As indicated above, the savings which may result to those manufacturers which are small businesses are expected to range from $300 to $600 a year for each such firm. The Commission does not believe that a savings in that amount would be significant in the context of the total income and total expenditures for any

mattress manufacturer which is a small business. Further, the Commission does not expect that small manufacturers would be at a significant competitive disadvantage in the market if the proposed amendment is issued on a final basis.

Environmental Considerations

The proposed amendment of the mattress standard published below falls within the categories of Commisson actions described in 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act

As noted above, the amendments proposed below, if issued on a final basis, would require manufacturers of mattresses and mattress pads to perform prototype testing before manufacturing mattresses or mattress pads subject to the standard for sale in commerce. Proposed § 1632.31(c) of the administrative rules implementing the amended standard requires manufacturers to compile and maintain records, including records of testing. For this reason, the proposal published below contains "collection of information requirements" and has been submitted to the Office of Management and Budget for approval of those collection of information requirements in accordance with provisions of the Paperwork Reduction Act (44 U.S.C. 3504(h)) and implementing regulations (5 CFR 1320.13). Any person who desires to comment on the collection of information requirements in the proposal published below should address those comments to the Office of Management and Budget, Office of Information and Regulatory Policy, Attention: Desk Officer for Consumer Product Safety Commission, Washington, D.C. 20503.

Effective Date

Section 4(b) of the FFA (15 U.S.C. 1193(b)) provides that an amendment of a flammability standard with is issued under provisions of section 4 of the FFA shall become effective twelve months from the date of publication of the final amendment, unless the Commission finds for good cause that an earlier or later effective date is in the public interest and publishes its reasons for that finding.

At this time, the Commission has no information indicating that an earlier or later effective date for the amended standard proposed below would be in the public interest. Consequently, at this time, the Commission is considering establishment of an effective date twelve months after publication of any final amendment which may be issued at the conclusion of this proceeding.

The Commission specifically solicits comments from interested persons on the issue of an appropriate effective date for any final amendment of the standard which may result from this proceeding. If any person believes that a date which is earlier or later than twelve months after publication of a final amendment is necessary or desirable, the Commission would appreciate suggestions for a specific effective date, and reasons supporting the suggested effective date.

Conclusion and Proposal

As discussed above, the Commission has considered the products and the nature of the risks of the occurrence of fires leading to death, personal injury, or significant property damage which are addressed by the mattress standard; comments received in response to the advance notice of proposed rulemaking by which this proceeding was initiated; the absence of any submission of an existing standard or portion of an existing standard, or statement of intent to develop or modify a voluntary standard to eliminate or reduce the risks of injury which the standard is intended to address; potential costs and benefits of an amendment of the standard, including its economic impact on small businesses; alternatives to the amendment of the mattress standard proposed below; and other relevant information.

List of Subjects in 16 CFR Part 1632

Consumer protection, Flammable materials, Labeling, Mattresses and mattress pads, Records, Textiles, Warranties.

Therefore, pursuant to provisions of the Flammable Fabrics Act (15 U.S.C. 1193, 1194) and the Consumer Product Safety Act (15 U.S.C. 2079(b)), the Commission hereby proposes to amend Title 16, Chapter II, Subchapter D by revising Part 1632 to read as follows:

PART 1632—STANDARD FOR THE FLAMMABILITY OF MATTRESSES AND MATTRESS PADS (FF 4-72, AMENDED)

Subpart A—The Standard

Sec.

1632.1 Definitions.
1632.2 Purpose, scope and applicability.
1632.3 General requirements.
1632.4 Mattress test procedure.
1632.5 Mattress pad test procedure.
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Authority:

15 U.S.C. 1193, 1194; 15 U.S.C. 2079(b).

Subpart A—The Standard

§ 1632.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act as amended (15 U.S.C. 1191), the following definitions apply for the purpose of the standard.

(a) "Mattress" means a ticking filled with a resilient material used alone or in combination with other products intended or promoted for sleeping upon.

(1) This definition includes, but is not limited to, adult mattresses, youth mattresses, crib mattresses including portable crib mattresses, bunk bed mattresses, futons, water beds and air mattresses which contain upholstery material between the ticking and the mattress core, and any detachable mattresses used in any item of upholstered furniture such as convertible sofa bed mattresses, corner group mattresses, day bed mattresses, roll-a-way bed mattresses, high risers, and trundle bed mattresses. See § 1632.8 Glossary of terms, for definitions of these items.

(2) This definition excludes sleeping bags, pillows, convoluted foam pads which are not totally encased in ticking, mattress foundations, liquid and gaseous filled tickings such as water beds and air mattresses which do not contain upholstery material between the ticking and the mattress core, upholstered furniture which does not contain a detachable mattress such as chaise lounges, drop-arm love seats, pressback lounges, push-back sofas, sleep lounges, sofa beds (including jackknife sofa beds), sofa lounges (including glide-outs), studio couches, and studio divans (including twin studio divans and studio beds), and juvenile product pads such as car bed pads, carriage pads, basket pads, infant carrier and lounge pads, dressing table pads, stroller pads, crib bumpers, and playpen pads. See § 1632.8 Glossary of terms, for definitions of these items.

(b) "Mattress Pad" means a thin, flat, mat or cushion, and/or ticking filled

with resilient material for use on top of a mattress. This definition includes, but is not limited to, absorbent mattress pads, and flat decubitus pads. This definition excludes convoluted foam pads which are not totally encased in ticking.

(c) "Ticking" means the outermost layer of fabric or related material that enclosed the core and upholstery materials of a mattress or mattress pad. A mattress ticking may consist of several layers of fabric or related materials quilted together.

(d) "Core" means the main support system that may be present in a mattress, such as springs, foam, hair block, water bladder, air bladder, or resilient filling.

(e) "Upholstery material" means all material, either loose or attached, between the ticking or between the mattress or mattress pad ticking and the core of a mattress, if a core is present.

(f) "Tape edge" (edge) means the seam or border edge of a mattress or mattress pad.

(g) "Quilted" means stitched with thread or by fusion through the ticking and one or more layers of upholstery material.

(h) "Tufted" means buttoned or laced through the ticking and upholstery material and/or core, or having the ticking and upholstery material and/or core drawn together at intervals by any other method which produces a series of depressions on the surface.

(i) "Manufacturer" means an individual plant or factory at which mattresses and/or mattress pads are produced or assembled.

(j) "Mattress prototype" means mattresses of a particular design, sharing all materials and methods of assembly, but excluding differences in mattresss size. If is has been shown as a result of prototype qualification testing that an upholstery material or core will not reduce the ignition resistance of the mattress prototype, substitution of another material for such material shall not be deemed a difference in materials for prototype definition. (See § 1632.31(c)(4) for records required to demonstrate that a change of materials have not reduced ignition resistance of a mattress prototype.) If it is determined or suspected that a material has influenced the ignition resistance of the mattress prototype, a change in that material, excluding an increase in thickness, shall be deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such change will not reduce the ignition resistance of the mattress prototype. Ticking materials may be substituted in accordance with § 1632.6. Tape edge materials may be substituted in accordance with § 1632.7.

(k) "Mattress pad prototype" means mattress pads of a particular design, sharing all materials and methods of assembly, but excluding differences in mattress pad size. A change in existing material shall be deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such change will not reduce the ignition resistance of the mattress pad prototype. (See § 1632.31(c)(4) for records required to demonstrate that a change of materials have not reduced ignition resistance of a mattress pad prototype.) Ticking materials may be substituted in accordance with § 1632.6. Tape edge materials may be substituted in accordance with § 1632.7.

(l) "Surface" means one side of a mattress or mattress pad which is intended for sleeping upon and which can be tested.

§ 1632.2 Purpose, scope, and applicability.

(a) *Purpose.* (1) This standard prescribes requirements for testing of prototype designs of mattresses and mattress pads before the sale in commerce or the introduction in commerce of any mattress or mattress pad which is subject to the standard. The standard prescribes a test to determine the ignition resistance of a mattress or a mattress pad when exposed to a lighted cigarette.

(2) The standard sets forth a test at § 1632.6 which may be used to classify ticking materials for resistance to cigarette ignition.

(3) The standard sets forth a test at § 1632.7 which may be used to demonstrate that the substitution of tape edge materials will not reduce the ignition resistance of a mattress prototype or a mattress pad prototype.

(b) *Scope.* (1) All mattresses, as defined in § 1632.1(a), and all mattress pads, as defined in § 1632.1(b), manufactured or imported after the effective date of this amendment are subject to the requirements of the standard as amended.

(2) All mattresses, as defined in § 1632.1(a), and all mattress pads, as defined in § 1632.1(b), manufactured or imported after June 22, 1973, and before the effective date of this amendment are subject to those requirements of the Standard for the Flammability of Mattresses (and Mattress Pads) (16 CFR Part 1632) which were in effect before the effective date of this amendment.

(3) Manufacturers or importers desiring to use the ticking substitution procedure provided in § 1632.6 may classify the ticking being used on each mattress prototype before or after the effective date of this amendment using the test procedure set forth in that section.

(4) One-of-a-kind mattresses and mattress pads may be excluded from testing under this standard in accordance with rules established by the Consumer Product Safety Commission. (See § 1632.31(f): exemption for mattresses and mattress pads prescribed by a physician.)

(c) *Applicability.* (1) The requirements for prototype testing prescribed by this standard are applicable to each "manufacturer" (as that term is defined in § 1632.1(i)) of mattresses or mattress pads subject to the standard which are manufactured for sale in commerce. The requirements of this standard for prototype testing are also applicable to all other persons or firms initially introducing mattresses or mattress pads into commerce, including importers; each such firm shall be deemed to be a "manufacturer" for purposes of this standard.

(2) The test at § 1632.6 for classification of ticking materials may be used by manufacturers of mattresses or mattress pads and by manufacturers of ticking materials. The test of § 1632.7 may be used by manufacturers of mattresses to demonstrate that substitution of tape edge materials will not reduce ignition resistance of a mattress prototype or a mattress pad prototype. Use of the tests in §§ 1632.6 and 1632.7 is optional.

§ 1632.3 General requirements.

(a) *Summary of test method.* The method measures the ignition resistance of a mattress or mattress pad by exposing the surface to lighted cigarettes in a draft-protected environment. The surfaces to be tested include smooth, tape edge, and quilted or tufted locations, if they exist on the mattress or mattress pad surface. A two-sheet test is also conducted on similar surface locations. In the latter test, the burning cigarettes are placed between the sheets.

(b) *Test criterion.* Testing the mattress or mattress pad surface in accordance with the testing procedure set forth in § 1632.4 *Mattress test procedure,* individual cigarette test locations pass the test if the char length is not more than 2 inches (5.1 cm) in any direction from the nearest point of the cigarette. In the interest of safety, the test operator should discontinue the test and record a

failure before reaching the 2 inch char length if an obvious ignition has occurred.

(c) *Pre-market testing.* Each manufacturer required to perform prototype testing by the standard shall perform the testing required by the standard with acceptable results before selling in commerce or introducing in commerce any mattress or mattress pad which is subject to the standard.

(d) *Specimen selection and qualification.* (1) Each manufacturer required to perform prototype testing by the standard shall construct or select enough units of each proposed mattress prototype or proposed mattress pad prototype to provide six surfaces testing. A minimum of three mattresses or mattress pads are required if both sides can be tested; six mattresses or mattress pads are required if only one side can be tested. Test each of the six surfaces according to § 1632.4(d). If all the cigarette test locations on all six mattress surfaces yield passing results using the criterion specified in § 1632.3(b), accept the mattress prototype. If all six surfaces of a mattress pad yield passing results using the criterion in § 1632.3(b), and all other applicable requirements prescribed by § 1632.5 are met, accept the mattress pad prototype. If one or more of the cigarette test locations on any of the six surfaces fail to meet the test criterion of § 1632.3(b), reject the mattress prototype or the mattress pad prototype.

(2) Prototype qualification testing may be repeated after action has been taken to improve the resistance of the mattress prototype or the mattress pad prototype to cigarette ignition by changes in design, construction methods, materials selection, or other means. When prototype qualification is repeated after rejection of a prototype, such qualification testing shall be conducted in the same manner as original qualification testing.

(3) Each mattress prototype and each mattress pad prototype must be accepted in prototype qualification before any mattress or mattress pad manufactured in accordance with such mattress prototype or mattress pad prototype is sold in commerce or introduced in commerce. Any manufacturer required to perform testing by the standard may rely on prototype tests performed before the effective date of this amended standard, provided that such tests were conducted in accordance with all requirements of §§ 1632.1(i), 1632.3(d), and 1632.4, and yield passing results when the test criterion of § 1632.3(b) is applied. If the ticking classification test at § 1632.6 is to be used when relying on prototype tests performed before the effective date of the standard, the ticking currently used on that mattress prototype must be classified before substitution of ticking using § 1632.6.

(4) Rejected prototype mattresses or prototype mattress pads shall not be retested, offered for sale, sold, or promoted for use as a mattress (as defined in § 1632.1(a)) or for use as a mattress pad (as defined in § 1632.1(b)) except after reworking to improve the resistance to ignition by cigarettes, and subsequent retesting and acceptance of the mattress prototype (as defined in § 1632.1(j)) or the mattress pad prototype (as defined in § 1632.1(k)).

§ 1632.4 Mattress test procedure.

(a) *Apparatus and Test Materials*—(1) *Testroom.* The testroom shall be large enough to accommodate a full-scale mattress in a horizontal position and to allow for free movement of personnel and air around the test mattress. The test area shall be draft-protected and equipped with a suitable system for exhausting smoke and/or noxious gases produced by testing. The testroom atmospheric conditions shall be greater than 18°C (65°F) and at less than 55 percent relative humidity.

(i) The room shall be equipped with a support system (platform, bench, etc.) upon which a mattress may be placed flat in a horizontal position at a reasonable height for making observations.

(ii) If thin flexible mattresses or mattress pads are being tested the room shall also be equipped with a glass fiberboard test surface. The glass fiberboard shall be approximately 1 inch (2.5 cm) thick and have a thermal conductivity of 0.30 ± 0.05 cal (g) / hr cm^2 °C/cm (0.24 ± 0.04 Btu/hr ft^2 °F/in) at 23.9°C (75°F).[1]

(2) *Ignition source.* The ignition source shall be cigarettes without filter tips made from natural tobacco, 85 ± 2 mm long with a tobacco packing density of 0.270 ± 0.02 g/cm^3 and a total weight of 1.1 ± 0.1 gm.

(3) *Fire extinguisher.* A pressurized water fire extinguisher, or other suitable fire extinguishing equipment, shall be immediately available.

(4) *Water bottle.* A water bottle fitted with a spray nozzle shall be used to extinguish the ignited portions of the mattress.

(5) *Scale.* A linear scale graduated in millimeters, 0.1 inch, or 1/16 inch divisions shall be used to measure char length.

(6) *Sheets or Sheeting Material.* White, 100 percent cotton, sheets or sheeting material shall be used. It shall not be treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance. It shall have 120–210 threads per square inch and fabric weight of 3.7 ± 0.8 oz/yd^2 (125 ± 28 gm/m^2). The size of the sheet or sheeting material shall be appropriate for the mattress being tested.

(7) *Other apparatus.* In addition to the above, a thermometer, a relative humidity measuring instrument, a thin rod, straight pins, a knife or scissors, and tongs are required to carry out the testing.

(b) *Test Preparation*—(1) *Mattress samples.* The mattress shall be removed from any packaging prior to conditioning. The mattress surface shall be divided laterally into two sections (see fig. 1), one section for the bare mattress tests and the other for the two-sheet tests.

(2) *Sheets or sheeting material.* The sheets or sheeting material shall be laundered once before use in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quality of a commercial detergent, and dried in an automatic home tumble dryer.

(i) The sheet shall be cut across the width into two equal parts after washing.

(ii) Sheeting material shall be cut in lengths to cover ½ of a mattress as described in § 1632.4(d)(3).

(3) *Cigarettes.* Unopened packages of cigarettes shall be selected for each series of tests. The cigarettes shall be removed from packaging prior to conditioning.

(c) *Conditioning.* The mattresses, laundered sheets or sheeting material, and loose cigarettes shall be conditioned in air at a temperature greater than 18°C (65°F) and a relative humidity less than 55 percent for at least 48 continuous hours prior to test. The mattresses, laundered sheets or sheeting material, and cigarettes shall be supported in a suitable manner to permit free movement of air around them during conditioning. The mattress meets this conditioning requirement if the mattress and/or all its component materials, except the metallic core, if present, have been exposed only to the above temperature and humidity conditions for at least 48 continuous hours prior to testing the mattress.

(d) *Testing—(1) General.* Mattress specimens shall be tested in a testroom

[1] Glass fiberboard that meets Federal Specification HH-I-558B is acceptable. Under this specification, the board must be Form A, Class 1, and plain faced. Copies of the specifications may be obtained from the Business Service Centers of the General Services Administration Regional Offices.

with atmospheric conditions of a temperature greater than 18°C (65°F) and a relative humidity less than 55 percent. If the test is not performed in the conditioning room, at least one lit cigarette shall be placed on the mattress surface within 10 minutes of removal from the conditioning room. The other side of the mattress shall be tested immediately after completion of the first side.

(i) At least 18 cigarettes shall be burned on each mattress test surface, 9 in the bare mattress tests and 9 in the 2-sheet tests. If three or more mattress surface locations (smooth surface, tape edge, quilted, or tufted areas) exist in the particular mattress surface under test, three cigarettes shall be burned on each different surface location. If only two mattress surface under test (tape edge and smooth surface), four cigarettes shall be burned on the smooth surface and five cigarettes shall be burned on the tape edge.

(ii) Light and place one cigarette at a time on the mattress surface. (If previous experience with a similar type of mattress has indicated that ignition is not likely, the number of cigarettes which may be lighted and placed on the mattress at one time is left to the test operator's judgement. The number of cigarettes must be carefully considered because a smoldering or burning mattress is extremely hazardous and difficult to extinguish). The cigarettes must be positioned no less than 6 inches apart on the mattress surface. Each cigarette used as an ignition source shall be well lighted but not burned more than 4 mm (0.16 inch) when placed on the mattress. (Fire extinguishing equipment must be readily available at all times.)

(iii) If a cigarette extinguishes before burning its full length on any mattress surface location, or pops out of position when tested on a tuft, or rolls off a test location, the test must be repeated with a freshly lit cigarette on a different portion of the same type of location on the mattress surface until either: the number of cigarettes specified in § 1632.4(d)(1)(i) have burned their full lengths; the number of cigarettes specified in § 1632.4(d)(1)(i) have extinguished before burning their full lengths; or a failure has occurred according to § 1632.3(b) *Test criterion.*

(2) *Bare mattress tests*—(i) *Smooth surface.* Each burning cigarette shall be placed directly on a smooth surface location on the test surface on the half reserved for bare mattress tests. The cigarettes should burn their full lengths on a smooth surface without burning across a tuft, or stitching of a quilted area. However, if this is not possible because of mattress design, then the cigarettes shall be positioned on the mattress in a manner which will allow as much of the butt ends as possible to burn on smooth surfaces. Report results for each cigarette as pass or fail as defined in test criterion. **Caution:** Even under the most carefully observed conditions, smoldering combustion can progress to the point where it cannot be readily extinguished. It is imperative that a test be discontinued as soon as ignition has definitely occurred. Immediately wet the exposed area with a water spray (from water bottle), cut around the burning material with a knife or scissors and pull the material out of the mattress with tongs. Make sure that all charred or burned material is removed. Ventilate the room.

(ii) *Tape edge.* Each burning cigarette shall be placed in the depression between the mattress top surface and the tape edge, parallel to the tape edge on the half of the test surface reserved for bare mattress tests. If there is only a seam or no depression at the edge, support the cigarettes in place along the edge and parallel to the edge with straight pins. Three straight pins may be inserted through the edge at a 45° angle such that one pin supports the cigarette at the burning end, one at the center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see fig. 2). Report results for each cigarette as pass or fail as defined in the test criterion.

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MATTRESS PREPARATION

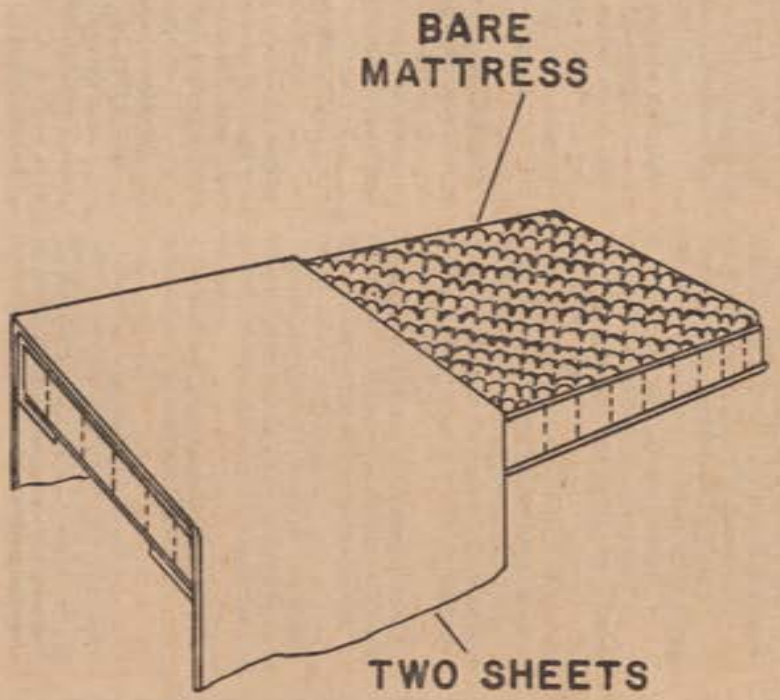
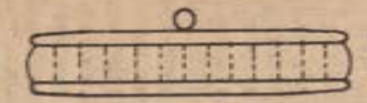
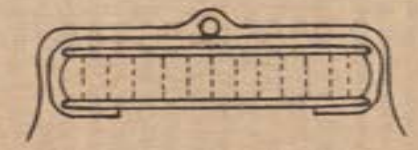


FIGURE 1

CIGARETTE LOCATION





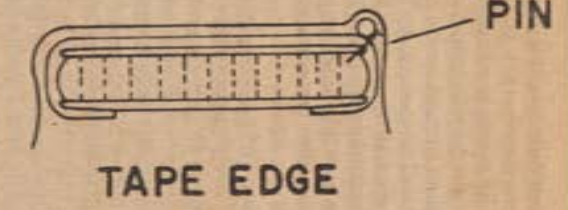


FIGURE 2

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(iii) *Quilted location.* If quilting exists on the test surface, each burning cigarette shall be placed on quilted locations of the test surface. The cigarettes shall be positioned directly over the thread or in the depression created by the quilting process on the half of the test surface reserved for bare mattress tests. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread or depression, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread or depression. Report results for each cigarette as pass or fail as defined in the test criterion.

(iv) *Tufted location.* If tufting exists on the test surface, each burning cigarette shall be placed on the tufted locations of the test surface. The cigarettes shall be positioned so that they burn down into the depression caused by the tufts and so that the butt ends of the cigarettes burn out over the buttons or laces used in the tufts or the depressions made by the tufts on the half of the test suface reserved for bare mattress tests. Report results for each cigarette as pass or fail as defined in the test criterion.

(3) *Two-sheet tests.* Spread a section of sheet or sheeting material smoothly over the mattress surface which has been reserved for the two-sheet test and tuck under the mattress. Care must be taken that hems or any other portion of the sheet which is more than one fabric thickness, is neither directly under nor directly over the test cigarette in the two-sheet test.

(i) *Smooth surfaces.* Each burning cigarette shall be placed directly on the sheet covered mattress in a smooth surface location as defined in the bare mattress test. Immediately cover the first sheet and the burning cigarettes loosely with a second, or top sheet (see fig. 2). Do not raise or lift the top sheet during testing unless obvious ignition has occurred or until the cigarette has burned out. (The extinguishment of the cigarette may be determined by holding the hand near the surface of the top sheet over the test location. If neither heat is felt nor smoke observed, the cigarette has burned out.) If ignition occurs, immediately remove the sheets and cigarette and follow the cautionary procedures outlined in the bare mattress test. Report results for each cigarette as pass or fail as defined in the test criterion.

(ii) *Tape edge.* (A) Each burning cigarette shall be placed in the depression between the top surface and the tape edge on top of the sheet, and immediately covered with a second sheet. It is important the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument.

(B) In most cases, the cigarettes will remain in place throughout the test; however, if the cigarettes show a marked tendency to roll off the tape edge location they may be supported with straight pins. Three straight pins may be inserted through the bottom sheet and tape at a 45° angle such that one pin supports the cigarette at the burning end, one at the center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see fig. 2). Report results for each cigarette as pass or fail as defined in the test criterion.

(iii) *Quilted locations.* If quilting exists on the test surface, each burning cigarette shall be placed in a depression caused by quilting, directly over the thread or depression and on the bottom sheet, and immediately covered with the top sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread or depression, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread or depression. Report results for each cigarette as pass or fail as defined in the test criterion.

(iv) *Tufted locations.* If tufting exists on the test surface, each burning cigarette shall be placed in the depression caused by tufting, directly over the tuft and on the bottom sheet, and immediately covered with the top sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. The cigarettes shall be positioned so that they burn down into the depression caused by the tuft and so that the butt ends of the cigarettes burn out over the buttons or laces, if used in the tufts. Report results for each cigarette as pass or fail as defined in the test criterion.

(e) *Records.* Records of all prototype test results, and the disposition of rejected prototypes shall be maintained by the person or firm required to perform testing by the standard in accordance with rules and regulations established by the Consumer Product Safety Commission at § 1632.31(c).

§ 1632.5 Mattress pad test procedure.

(a) *Testing.* All mattress pads shall be tested, in the condition in which they are intended to be sold, according to § 1632.4 Mattress test procedure, using the glass fiberboard substrate.

(b) *Flame Resistant Mattress Pads.* The following additional requirements shall be applicable to mattress pads which contain a chemical fire retardant.

(1) These mattress pads shall be tested in accordance with § 1632.4 Mattress test procedure after they have been washed and dried 10 times as described in § 1632.5(b)(2).

(i) Such laundering is not required of mattress pads which are intended for one time use and/or are not intended to be laundered, as determined by the Consumer Product Safety Commission.

(ii) Mattress pads which are not susceptible to being laundered and are labeled "dryclean only" shall be drycleaned by a procedure which has previously been found acceptable by the Consumer Product Safety Commission.

(2) *Laundering Procedure.* (i) The washing procedure to be used for flame resistant mattress pads is prescribed in AATCC Test Method 124–82, "Appearance of Durable Press Fabrics After Repeated Home Laundering" washing procedures 6.2(III), with a water temperature of 60°±2.8°C (140°±5°F).

(ii) The drying procedure to be used for flame resistant mattress pads is prescribed in AATCC Test Method 124–82, "Appearance of Durable Press Fabrics After Repeated Home Laundering," drying procedure 6.3.2(b).

(iii) Maximum load shall be 3.46 kg (8 lb) and may consist of any combination of test items and dummy pieces.

(iv) AATCC Test Method 124–82, "Appearance of Durable Press Fabrics After Repeated Home Laundering," is found in the Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 58, 1982 (incorporated by reference). Copies of this document are available from the American Association of Textile Chemists and Colorists, Post Office Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register.

(v) A different number of wash and dry cycles using another procedure may be specified and used, if that procedure has previously been found to be equivalent by the Consumer Product Safety Commission.

(3) *Labeling*—(i) *Treatment label.* If a mattress pad contains a chemical fire retardant, it shall be labeled with the letter "T" pursuant to rules and regulations established by the Consumer Product Safety Commission.

(ii) *Care label.* All mattress pads which contain a chemical fire retardant treatment shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Consumer Product Safety Commission in § 1632.31(b).

(iii) *Exception.* One time use products as defined in § 1632.5(b)(1)(i) are not subject to these labeling requirements.

§ 1632.6 Ticking substitution procedure.

(a) This procedure may be used to verify acceptable equivalency if a mattress or mattress pad manufacturer wishes to change the ticking used on a particular mattress or mattress pad prototype without conducting a prototype test as specified in § 1632.4 or § 1632.5. The procedure includes a ticking classification test that may be used by a ticking, mattress or mattress pad manufacturer or by a distributor of ticking.

(b) *Definitions:* for the purpose of this section the following definitions apply in addition to those in § 1632.1.

(1) *Mattress Ticking Prototype.* Means a ticking of a specific construction, color, or combination of colors or color pattern, weave pattern design, finish application, fiber content, and weight per unit area. With respect to film-coated ticking, a mattress ticking prototype means in addition to the factors listed above, a given method of application, chemical formula, and thickness of application of film coating. With respect to a quilted ticking, a mattress ticking prototype means the combination of a specific ticking as described above; a specific filling, thickness, density, and chemical composition; a specific thread; a specific method of quilting; and a specific backing fabric construction, weave, finish, fiber content, and weight.

(2) *Mattress Pad Ticking Prototype* (i) Means a ticking of a specific construction, color, or combination of colors or color pattern, weave pattern design, finish application, fiber content, and weight per unit area. With respect to film-coated ticking, a mattress pad ticking prototype means in addition to the factors listed above, a given method of application, chemical formula, and thickness of application of film coating.

(ii) Quilted ticking is excluded from this definition. Therefore, the following procedures may not be used to substitute quilted ticking used on or as a mattress pad.

(c) *Scope and application.* (1) This procedure provides an independent evaluation of the cigarette ignition characteristics of ticking and for the classification of ticking into one of three performance classes. Class A represents tickings evaluated as acting as barriers against cigarette ignition; Class B represents tickings evaluated as having no effect on cigarette ignition; and Class C represents tickings evaluated as having the potential, in some manner, to act as a contributor to cigarette ignition.

(2) Substitution of any ticking which has been evaluated as Call A using the procedure in this § 1632.6 for any other ticking material shall not be a "difference in materials" as that phrase is used in § 1632.1 (j) and (k). Consequently, any ticking material evaluated as Class A under this test procedure may be used on any qualified mattress prototype or on any qualified mattress pad prototype without conducting new prototype tests.

(3) Substitution of any ticking which has been evaluated as Class B using the procedure in this § 1632.6 for the ticking material used on any mattress prototype or on any mattress pad prototype which was qualified in prototype testing with a testing material evaluated as Class B or a Class C shall not be a "difference in materials" as that phrase is used in §§ 1632.1(j) and (k). Consequently, any ticking material evaluated as Class B under this test procedure may be used on any mattress or mattress pad which was qualified in prototype testing with a Class B or Class C ticking material without conducting new prototype tests. However, if Class B ticking material is to be used on any mattress or mattress pad which was qualified in prototype testing with a Class A ticking material, the mattress prototype or mattress pad prototype must be requalified, using a Class B ticking.

(4) A ticking material which has been evaluated as Class C using the procedure in this § 1632.6 may be used only on a mattress or mattress pad which was qualified in prototype testing with that particular Class C ticking material. Consequently, a ticking material evaluated as Class C under this test procedure may not be used on any mattress or mattress pad which was qualified in prototype testing using another Class C ticking material, or a Class A or Class B ticking material, without conducting new prototype tests.

(d) *General Requirements.* (1) This procedure is a ticking prototype performance classification test. Ticking not classified according to this procedure may be used on mattresses or mattress pads if the mattress prototype or mattress pad prototype has been qualified utilizing the unclassified ticking in question.

(2) *Test Criterion.* Testing the ticking in accordance with the test procedure set forth in § 1632.6(e), individual cigarette test locations pass the test if the char length is not more than 1 inch (2.54 cm) in any direction from the nearest point of the cigarette, and the cotton felt is not ignited.

CAUTION: In the interest of safety, the test operator should discontinue the test and record a failure before reaching the 1 inch (2.54 cm) char length if, in his opinion, an obvious ignition has occurred.

(3) *Specimen selection.* Three specimens shall be used for each ticking prototype classification test, with each specimen measuring no less than 20 inches by 20 inches (50.8 cm × 50.8 cm) square. The three specimens shall be selected from any fabric piece taken from a ticking prototype. The specimens shall be representative of the ticking prototype.

(4) *Ticking Classification.* A ticking prototype is classified as Class A, Class B, or Class C, in accordance with the following schedules.

(i) Class A—A ticking prototype is classified as Class A when three specimens, tested in accordance with § 1632.6(e), meet the test criterion in § 1632.6(d)(2) when the ticking is tested directly over the cotton felt on the test box.

(ii) Class B—A ticking prototype is classified as Class B when three specimens, tested according to § 1632.6(e), meet the test criterion in § 1632.6(d)(2) when the ticking is tested on a ¼ inch ± 1/32 inch (6.3 mm ± .8 mm) thick urethane foam pad covering the cotton felt on the test box.

(iii) Class C—A ticking prototype is classified as Class C when three specimens tested according to § 1632.6(e), fail to meet the test criterion in § 1632.6(d)(2) when the ticking is tested on a ¼ inch ± 1/32 inch (6.3 mm ± .8 mm) thick urethane foam pad covering the cotton felt on the test box.

(e) *Test Procedure*—(1) *Apparatus.* For the purpose of this section the following apparatus and materials are required in addition to that which is listed in § 1632.4 (a) and (b).

(i) *Sheet and Sheeting Material.* Test covers made from sheets or sheeting material shall not be less than 12 inches by 12 inches (30.48 cm by 30.48 cm) square.

(ii) *Template.* Designed to allow for a one inch marking around the placement of the ciagrette (see figure 3). Use of this template is optional.

(iii) *Stapler or masking tape* or other means of attachment to secure fabric to test box.

(iv) *Mounting Box.* A 6 inch deep, 12 inch square plywood box. The box contains two ½ inch in diameter ventilation holes. (See figure 4).

(v) *Cotton Felt.* (A) The cotton felt shall be a thoroughly-garnetted mixture of all new material consisting of not less than 67% linters and of not more than 33% clean picker blend or equivalent binder and not more than 5% non-cellulosic total content. The felt shall not be bleached, moistened or chemically treated in any way.

(B) The felt may be re-used repeatedly after completion of each test by removing all of the smoldering, charred, heat-discolored fibers, or fibers exposed to water as a result of extinguishing the cotton ignited by previous test.

(vi) *Urethane Foam.* The urethane foam shall have a density of 1.2 to 1.5 pounds per cubic foot, an indention load deflection of 22 to 35 pounds, with each test specimen measuring no less than 12 inches by 12 inches (30.48 cm by 30.48 cm) square, having a thickness of ¼ inch ± 1/32 inch (6.3 mm ± .8 mm). The foam shall not be treated with a flame retardant chemical.

(2) *Conditioning.* The test specimens, cigarettes, laundered sheets or sheeting material, foam and felt shall be conditioned as described in § 1632.4(c).

(3) *Specimen Preparation.* (i) Place 907.2 ± .4 grams (two pounds) of cotton felt in the test box, allowing the felt to protrude above the opening of the box to a height of up to 3 inches (7.62 cm) at the crown.

(ii) For the first part of this test, place a 12 inches by 12 inches (30.48 cm by 30.48 cm) square urethane foam pad on top of the cotton felt. Stretch the ticking specimen over the foam pad and fasten it to the sides of the test box using a stapler or tape. Be careful to avoid wrinkles in the fabric and have sufficient tautness to assure firm contact between the fabric and the filling materials in the test box.

(4) *Testing.* (i) Ticking specimens shall be tested in a testroom with atmospheric conditions of a temperature greater than 18°C (65°F) and a relative humidity less than 55%.

(ii) Three cigarettes shall be burned on each ticking specimen, with no more than one cigarette burning at any time. At least one cigarette shall be placed on the most prominent part of the color and weave pattern design in the ticking. If the ticking is quilted, one cigarette shall be placed over the thread or in the depression created by the quilting process. Each cigarette must be positioned no less than two inches (5.08 cm) from any other cigarette or the edge of the box.

(iii) Light and place one cigarette on the test specimen. Immediately cover the burning cigarette with a sheet test cover. The cigarette shall be well lighted but not burned more than 4mm (0.16 inch) when placed on the test specimen. The cigarette may be supported by three straight pins such that one pin supports the cigarette at the burning end, one at the center and one at the butt. The heads of the pins must be below the upper surface of the cigarette. Upon completion of the three cigarette burns and removal of the fabric and foam specimens, remove all of the char or heat discoloration on the cotton felt as stated in § 1632.6(e)(v)(B). Fresh new felt shall be added to replace the discarded fibers in the amount necessary to maintain the full 907.2 ± 4 grams (two pounds) of felt for each test.

(iv) If the cigarette extinguishes before burning its full length, the test must be repeated with a feshly lit cigarette on a different portion of the ticking specimen until either three cigarettes have burned their full lengths or three cigarettes have extinguished. Report result for each cigarette as pass or fail as defined in Test Criterion § 1632.6(d)(2). An obvious ignition is recorded as a failure.

(v) If ignition occurs with any of the three cigarette burns on the ticking specimen, terminate testing of that specimen and classify according to § 1632.6(d)(4).

(vi) If all cigarette test locations meet the Test Criterion in § 1632.6(d)(2), repeat procedure outlined in § 1632.6(e)(4)(iii) for the second part of the test with new ticking specimens that will be retested directly over the cotton felt, without the urethane foam pad. Remove the urethane foam pad and charred or heat discolored area from the cotton felt as specified in § 1632.6(e)(v)(B) prior to testing. Record the test results as pass or fail as defined in *Test Criterion* § 1632.6(d)(2) and classify according to § 1632.6(d)(4).

(5) *Records.* Records of any ticking classification test results relied upon by the mattress or mattress pad manufacturer or importer shall be maintained in accordance with rules and regulations established by the Consumer Product Safety Commission in § 1632.31(c). As provided by § 1632.31(c)(6), manufacturers or importers of mattresses or mattress pads may rely on a certification of compliance with this section of the standard provided by the ticking manufacturer or distributor; however, if a mattress or mattress pad fails to comply with the standard, the mattress or mattress pad manufacturer or importer must assume full responsibility under the standard. The Commission has no authority under this standard to compel ticking manufacturers or distributors to comply with this section or to establish, maintain and provide upon request, the records specified in 1632.31(c).

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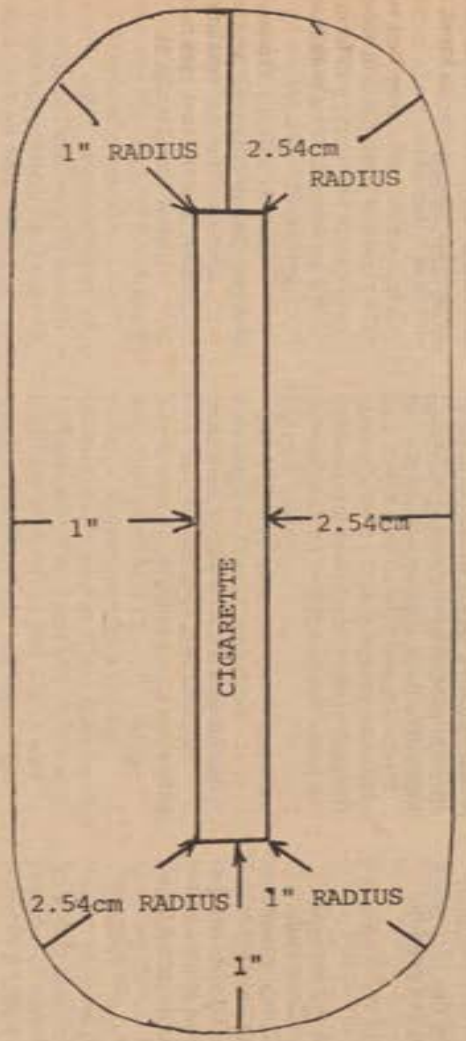
FIGURE 3

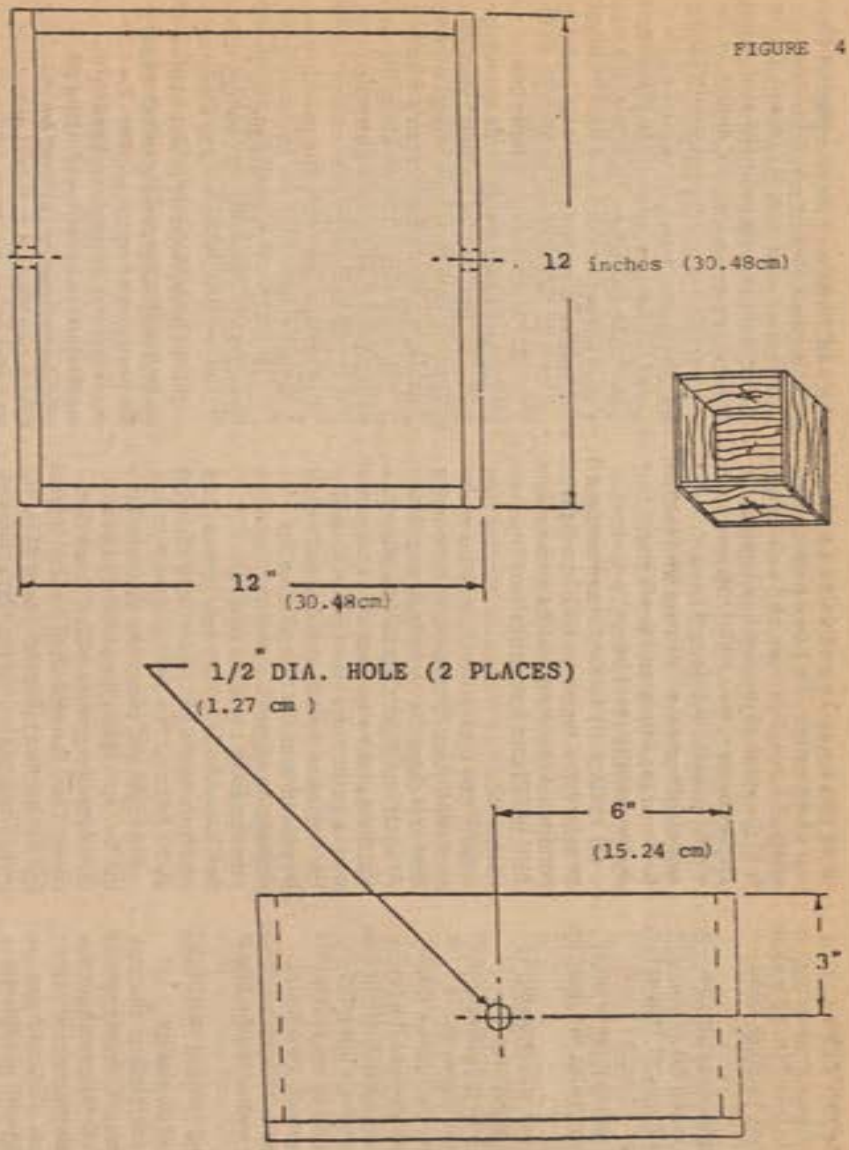


1 INCH (2.54cm) TEMPLATE

TOLERANCES + 1/32" - 0"

BILLING CODE 6355-01-C

FIGURE 4



TEST BOX

MATERIAL 1/2" PLYWOOD

TOLERANCES + 1/32 " - 0"

§ 1632.7 Tape edge substitution procedure.

(a) Section 1632.1 (j) and (k) provide in part that "a change in existing material shall be deemed a difference in materials for purposes of prototype definition unless it is shown to the satisfaction of the Consumer Product Safety Commission that such change will not reduce the ignition resistance" of the mattress prototype or the mattress pad prototype.

(b) The Commission will regard a showing "to the satisfaction of the Consumer Product Safety Commission" to have been made with respect to materials substitution of items such as flange materials and tapes at the tape edge under the following circumstances:

(1) The mattress or mattress pad prototype has been qualified previously under the provisions of § 1632.3; and

(2) A substitution of materials involving only tape edge construction is contemplated; and

(3) A prototype mattress or mattress pad incorporating the substitute materials has been tested with 36 cigarettes (18 per surface—9 bare and 9 two—sheet) placed at tape edge locations with no ignitions occurring; and

(4) Records are maintained setting forth the details of the materials substitution and showing the results of the testing referred to in paragraph (b)(3) of this section. The records are to be maintained in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

§ 1632.8 Glossary of terms.

(a) *Absorbent pads.* Pad used on top of mattress. Designed to absorb urine thereby reducing skin irritation, can be one time use.

(b) *Basket pad.* Cushion for use in an infant basket.

(c) *Bunk beds.* A tier of beds, usually two or three, in a high frame complete with mattresses (see fig. 5).

(d) *Car bed.* Portable bed used to carry a baby in an automobile.

(e) *Carriage pad.* Cushion to go into a baby carriage.

(f) *Chaise lounge.* An upholstered couch chair or a couch with a chair back. It has a permanent back rest, no arms, and sleeps one (see fig. 5).

(g) *Convertible sofa.* An upholstered sofa that converts into an adult sized bed. Mattress unfolds out and up from under the seat cushioning (see fig. 5).

(h) *Convoluted foam pad.* A bed pad made of foam in an egg-crate configuration not encased in ticking.

(i) *Corner groups.* Two twin size bedding sets on frames, usually slipcovered, and abutted to a corner table. They also usually have loose bolsters slipcovered (see fig. 5).

(j) *Crib bumper.* Padded cushion which goes around three or four sides inside a crib to protect the baby. Can also be used in a playpen.

(k) *Daybed.* Daybed has foundation, usually supported by coil or flat springs, mounted between arms on which mattress is placed. It has permanent arms, no backrest, and sleeps one (see fig. 5).

(l) *Decubitus pad.* Designed to prevent or assist in the healing of decubitus ulcers (bed sores). Flat decubitus pads are covered by the standard. Convoluted decubitus pads made entirely from foam are not covered by the standard.

(m) *Dressing table pad.* Pad to cushion a baby on top of a dressing table.

(n) *Drop-arm loveseat.* When side arms are in vertical position, this piece is a loveseat. The adjustable arms can be lowered to one of four positions for a chaise lounge effect of a single sleeper. The vertical back support always remains upright and stationary (see fig. 5).

(o) *Futon.* A flexible mattress generally used on the floor that can be folded or rolled up for storage. It usually consists of resilient material covered by ticking.

(p) *High riser.* This is a frame of sofa seating height with two equal size mattresses without a backrest. The frame slides out with the lower bed and rises to form a double or two single beds (see fig. 5).

(q) *Infant carrier and lounge pad.* Pad to cushion a baby in an infant carrier.

(r) *Mattress foundation.* Consists of any surface such as foam, box springs or other, upon which a mattress is placed to lend it support for use in sleeping upon.

(s) *Pillow.* Cloth bag filled with resilient material such as feathers, down, sponge rubber, urethane, or fiber used as the support for the head of a person.

(t) *Playpen pad.* Cushion used on the bottom of a playpen.

(u) *Portable crib.* Smaller size than a conventional crib. Can usually be converted into a playpen.

(v) *Press-back lounges.* Longer and wider than conventional sofa beds. When the lounge seat is pressed lightly, it levels off to form, with the seat, a flat sleeping surface. The seat slopes, in the sitting position, for added comfort (see fig. 5).

(w) *Push-back sofa.* When pressure is exerted on the back of the sofa, it becomes a bed. When the back is lifted, it becomes a sofa again. Styled in tight or loose cushions (see fig. 5)

(x) *Roll-away-bed.* Portable bed which has frame which folds in half with the mattress for compact storage.

(y) *Sleep lounge.* Upholstered seating section is mounted on a sturdy frame. May have bolster pillows along the wall as backrests or may have attached headrests (see fig. 5).

(z) *Stroller pad.* Cushion used in a baby stroller.

(aa) *Sofa bed.* These are pieces in which the back of the sofa swings down flat with the seat to form the sleeping surface. All upholstered. Some sofa beds have bedding boxes for storage of bedding. There are two types: the one-piece, where the back and seat are upholstered as a unit, supplying an unbroken sleeping surface; and the two-piece, where back and seat are upholstered separately (see fig. 5).

(bb) *Sofa lounge*—(includes glideouts). Upholstered seating section is mounted on springs and in a special frame that permit it to be pulled out for sleeping. Has upholstered backrest bedding box that is hinged. Glideouts are single sleepers with sloping seats and backrests. Seat pulls out from beneath back and evens up to supply level sleeping surface (see fig. 5).

(cc) *Studio couch.* Consists of upholstered seating section on upholstered foundation. Many types convert to twin beds (see fig. 5).

(dd) *Studio divan.* Twin size upholstered seating section with foundation is mounted on metal bed frame. Has no arms or backrest, and sleeps one (see fig. 5).

(ee) *Trundle bed.* A low bed which is rolled under a larger bed. In some lines, the lower bed springs up to form a double or two single beds as in a high riser (see fig. 5).

(ff) *Twin studio divan.* Frames which glide out (but not up) and use seat cushions, in addition to upholstered foundation to sleep two. Has neither arms nor back rest (see fig. 5).

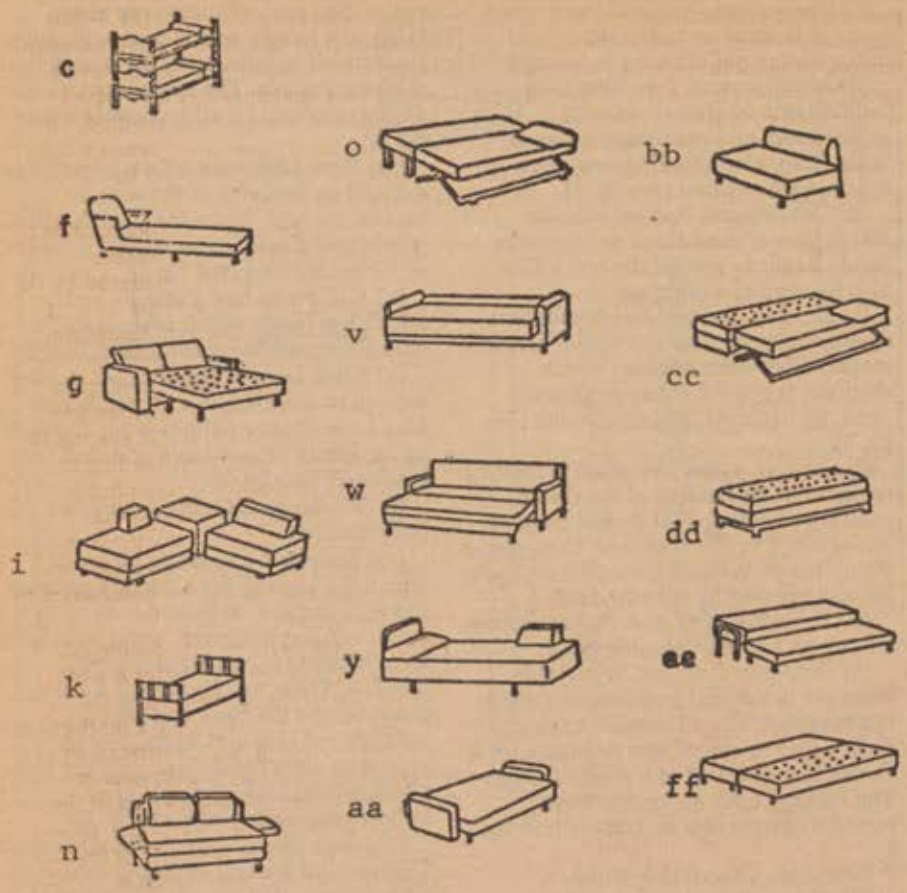


Figure 5

Subpart B—Rules and Regulations

§ 1632.31 Mattresses/Mattress Pads—Labeling, recordkeeping, guaranties and "one of a kind" exemption.

(a) *Definitions.* For the purposes of this section, the following definitions apply:

(1) "Standard for the Flammability of Mattresses" or "Standard" means the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), (16 CFR Part 1632, Subpart A).

(2) The definition of terms set forth in the § 1632.1 of the Standard shall also apply to this section.

(b) *Labeling.* (1) All mattress pads which contain a chemical fire retardant shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent, prominent, conspicuous, and legible.

(2) If a mattress pad contains a chemical fire retardant, it shall be prominently, conspicuously, and legibly labeled with the letter "T".

(3) Each mattress or mattress pad subject to the Standard shall bear a permanent, accessible, and legible label containing the month and year of manufacture and the location of the manufacturer. (See § 1632.1(i) of the Amended Standard).

(4) The information required on labels by this section shall be set forth separately from any other information appearing on such label. Other information, representations, or disclosures, appearing on labels required by this section or elsewhere on the item, shall not interfere with, minimize, detract from, or conflict with the required information.

(5) No person, other than the ultimate consumer, shall remove or mutilate, or cause or participate in the removal or mutilation of, any label required by this section to be affixed to any item.

(6) Products intended for one time use (see § 1632.5(b)(1)(i)) are not subject to the requirements of paragraphs (1) and (2) of this § 1632.31(b).

(c) *Records—manufacturers, importers, or persons initially introduce items into commerce.* Every manufacturer, importer, or other person initially introducing into commerce mattresses or mattress pads subject to the standard, irrespective of whether guarantees are issued relative thereto, shall maintain the record hereinafter specified.

(1) Manufacturing specification and description of each mattress or mattress pad prototype with an assigned prototype identification number.

(2) Test result and details of each prototype test performed in accordance with § 1632.4 or § 1632.5, including prototype identification number, ticking classification if known, test room condition, cigarette locations, number of relights for each location, whether each cigarette location passed or failed, name and signature of person conducting the test and date of test. These records shall include a certification by the person overseeing the testing as to the test results and that the test was carried out in accordance with the Standard.

(3) Photograph (color or black and white) of the bare surface of each mattress or mattress pad tested, in accordance with § 1632.4 or § 1632.5, with the prototype identification number of the mattress or mattress pad and a clear designation as to which part of the mattress or mattress pad was sheeted and which part was tested bare.

(4) Record to support any determination that a particular material, other than the ticking or tape edge material used in a mattress or mattress pad prototype did not influence the ignition resistance of the prototype and could be substituted by another material. Such record should include photographs or physical specimens.

(5) Manufacturing specification and description of any new ticking or tape edge material substituted in accordance with § 1632.6 or § 1632.7, with the identification number of the prototype involved.

(6) The test result and details of any ticking classification test conducted in accordance with § 1632.6, including the ticking classification (A, B or C), the test room condition, the number of relights, whether each cigarette location passed or failed, the name and signature of the person conducting the test and the date of the test, *or* a certification from the ticking supplier. The certification should state the ticking classification and that

the ticking was tested in accordance with § 1632.6.

(7) The test results and details of any test of tape edge materials conducted in accordance with § 1632.7, including prototype identification number, test room condition, number of relights, whether each cigarette passed or failed, name and signature of person conducting the test and date of test. The record shall include a certification by the person overseeing the testing as to the test results and that the test was carried out in accordance with § 1632.7.

(8) Photograph (color or black and white) of the bare surface of each mattress or mattress pad tested in accordance with § 1632.7, with the prototype identification number of the mattress or mattress pad and a clear designation as to which part of the mattress or mattress pad was sheeted and which part was tested bare.

(9) Details of any approved alternate laundering procedure used in laundering mattress pads required by the Standard to be launched during testing.

(10) Identification, composition, and details of the application of any flame retardant treatments employed relative to mattress pads or mattress pad components.

(11) Disposition of all failing or rejected prototype mattress or mattress pads. Such records must demonstrate that the items were retested and reworked in accordance with the Standard prior to sale or distribution and that such retested or reworked mattresses or mattress pads comply with the Standard, or must otherwise show the disposition of such items.

(12) The records required by this paragraph shall be maintained for as long as the prototype is in production, the ticking is being used on the mattress or mattress pad prototype, and/or the tape edge material is being used on the mattress or mattress pad prototype, and shall be retained for 3 years thereafter.

(d) *Tests for guarantry purposes.* Reasonable and representative tests for the purpose of issuing a guaranty under section 8 of the Act for mattresses or mattress pads subject to the Standard shall be those prototype and substitution tests performed, pursuant to the requirements of the Standard.

(e) *Compliance with this section.* No person subject to the Flammable Fabrics Act shall manufacture for sale, import, distribute, or otherwise market or handle any mattress or mattress pad which is not in compliance with § 1632.31.

(f) *"One of a kind" exemption for physician prescribed mattresses and mattress pads.* (1) A mattress or mattress pad manufactured in accordance with a physician's written prescription or manufactured in accordance with other comparable written medical therapeutic specification, to be used in connection with the treatment or management of a named individual's physical illness or injury, shall be considered a "one of a kind mattress" and shall be exempt from testing under the Standard pursuant to § 1632.2(b)(4) thereof: Provided, that the mattress bears a permanent, conspicuous and legible label which states:

WARNING: This mattress or mattress pad may be subject to ignition and hazardous smoldering from cigarettes. It was manufactured in accordance with a physician's prescription and has not been tested under the Federal Standard for the Flammability of Mattresses (FF 4–72).

Such labeling must be attached to the mattress or mattress pad so as to remain on or affixed thereto for the useful life of the mattress or mattress pad. The label must be at least 40 square inches (250 sq. cm) with no linear dimension less than 5 inches (12.5 cm). The letters in the word "WARNING" shall be no less than 0.5 inch (1.27 cm) in height and all letters on the label shall be in a color which contrasts with the background of the label. The warning statement which appears on the label must also be conspicuously displayed on the invoice or other sales papers that accompany the mattress in commerce from the manufacturer to the final point of sale to a consumer.

(2) The manufacturer of a mattress or mattress pad exempted from testing under this paragraph shall, in lieu of the records required to be kept by paragraph (c) of this section, retain a copy of the written prescription or other comparable written medical therapeutic specification for such mattress or mattress pad during a period of three years, measured from the date of manufacture.

(3) For purposes of this regulation the term "physician" shall mean a physician, chiropractor or osteopath licensed or otherwise permitted to practice by any State of the United States.

Subpart C—Interpretations and Policies

§§ 1632.61–1632.62 [Reserved]

§ 1632.63 Policy clarification on renovation of mattresses.

(a) Section 3 of the Flammable Fabrics Act (15 U.S.C. 1192) prohibits, among other things, the "manufacture for sale" of any product which fails to conform to an applicable standard issued under the act. The standard for the Flammability of Mattresses, as amended (FF 4–72) (Subpart A of this part), issued pursuant to the act, provides that, with certain exceptions, mattress must be tested according to a prescribed method. The standard does not exempt renovation; nor does it specifically refer to renovation.

(b) The purpose of this document is to inform the public that mattresses renovated for sale are considered by the Commission to be mattresses manufactured for sale and, therefore, subject to the requirements of the Mattress Standard. The Commission believes that this policy clarification will better protect the public against the unreasonable risk of fires leading to death, personal injury or significant property damage, and assure that purchasers of renovated mattresses receive the same protection under the Flammable Fabrics Act as purchasers of new mattresses.

(c) For purposes of this document, mattress renovation includes a wide range of operations. Replacing the ticking or batting, stripping a mattress to its springs, rebuilding a mattress, or replacing components with new or recycled materials, are all part of the process of renovation. Any one, or any combination of one or more, of these steps in mattress renovation is considered to be mattress manufacture.

(d) If the person who renovates the mattress intends to retain the renovated mattress for his or her own use, or if a customer of a renovator merely hires the services of the renovator and intends to take back the renovated mattress for his or her own use, "manufacture for sale" has not occurred and such a renovated mattress is not subject to the mattress standard.

(e) However, if a renovated mattress is sold or intended for sale, either by the renovator or the owner of the mattress who hires the services of the renovator, such a transaction is considered to be "manufacture for sale".

(f) Accordingly, mattress renovation is considered by the Commission to be "manufacture for sale" and, therefore, subject to the Mattress Standard, when renovated mattresses are sold or intended for sale by a renovator or the customer of the renovator.

(g) A renovator who believes that certain mattresses are entitled to one-of-a-kind exemption, may present relevant facts to the Commission and petition for an exemption. Renovators are expected to comply with all the testing requirements of the Mattress Standard until an exemption is approved.

(15 U.S.C. 1193, 1194; 15 U.S.C. 2079(b))

Dated: December 23, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Briefing paper concerning amendments to the mattress flammability standard; 9 pages March 30, 1982.
2. Rule Review Report, TAB 3—Mattress Flammability Standard, by J. F. Hoebel; 23 Pages; February 14, 1980.
3. Report of Consumer Products Safety Commission to Congress concerning review of Commission rules; 44 pages; May 1980.
4. Memorandum from Liz Jones, CARM, to James F. Hoebel, OPM, concerning amendment of mattress standard; 9 pages; April 24, 1981.
5. Evaluation of the impact of the mattress and carpet and rug flammability standards upon industry, by Technology and Economics, Inc.; 107 pages; February 2, 1981.
6. Memorandum from Bea Harwood, HIEI, to Jim Hoebel, OPM, concerning injury findings to support amendment of mattress standard; 3 pages; September 8, 1981.
7. Memorandum from Patricia Fairall, ESMT, to Harleigh Ewell, OGC, concerning amendment of the mattress flammability standard, with attachments; 64 pages; April 24, 1981.
8. Current industrial Reports, Mattresses, Foundations, and Sleep Furniture, Summary for 1980, issued by the U.S. Department of Commerce; 6 pages; August 1981.
9. **Federal Register** notice, "Standard for the Flammability of Mattresses (and Mattress Pads): Advance Notice of Proposed Rulemaking," published by Consumer Product Safety Commission; 6 pages; June 10, 1982 (47 FR 25159).
10. Comments on ANPR from Meridian Mattress Factory, Inc.; 5 pages; June 15 and June 22, 1982.
11. Comment on ANPR from the Govmark Organization, Inc.; 1 page; June 24, 1982.
12. Comment on ANPR from Doris Eichenwald; 1 page; July 22, 1982.
13. Comment on ANPR from Bureau of Home Furnishings, Department of Consumer Affairs, State of California; 3 pages; July 21, 1982.
14. Comment on ANPR from National Fire Protection Association; 6 pages; August 6, 1982.
15. Comment on ANPR from Juanita W. Fleming, R. N., Ph. D., F.A.A.N.; 1 page; July 23, 1982.
16. Comment on ANPR from National Association of Bedding Manufacturers, with attachments; 64 pages; undated.
17. Comment on ANPR from the Procter & Gamble Company; 1 page; August 2, 1982.
18. Comment on ANPR from citizens Committee for Fire Protection; 7 pages; undated.
19. Comment on ANPR from Flexible Polyurethane Foam Manufacturers Association; 3 pages; August 9, 1983.
20. Staff briefing package, including transmittal memorandum from Office of Program Management to the Commission concerning comments on ANPR and staff recommendations for amendment of the mattress standard; 16 pages; December 12, 1983. The tabs of this package are listed separately below.

TAB A

Advance notice of proposed rulemaking; same document as item 9, above.

21. Draft Federal Register notice to propose amendments of the mattress standard; 108 pages; undated.

TAB B

22. Summary of comments in response to ANPR; 4 pages; undated. Comments received in response to ANPR; same documents as items 10 through 19, above.

TAB C

23. Memorandum from L. J. Sharman, OPM, to Edgar Morgan, Executive Director, concerning amendment of the mattress flammability standard; 5 pages; October 25, 1982.

TAB D

24. Memorandum from Liz Gomilla, CARM, to L. J. Sharman, Fire Program Officer, concerning results of testing to determine compliance with the mattress standard, with attachments; 23 pages; June 13, 1983.
25. Memorandum from Liz Gomilla, CARM, to L. J. Sharman, Fire Program Officer, concerning analysis of comments received in response to ANPR; 4 pages; June 24, 1983.
26. Memorandum from Liz Gomilla, CARM, to L. J. Sharman, Fire Program Officer, concerning mattress compliance program for fiscal year 1985; 1 page; June 24, 1983.

TAB E

27. Memorandum from Patricia Fairall, ESMT, to L. J. Sharman, OPM, concerning analysis of comments received in response to ANPR; 6 pages; July 27, 1983.
28. Memorandum from Pat Fairall and Jean Williams, ESMT, to L. James Sharman, OPM, concerning technical changes to amended mattress standard; 8 pages; July 29, 1983.
29. Technical rationale for mattress ticking substitution test, by Patricia Fairall, Engineering Sciences; 15 pages; July 1983.

TAB F

30. Memorandum from Barbara Morton, ECCP, to L. J. Sharman, OPM, concerning comments received in response to ANPR; 2 pages; April 26, 1983.
31. Minutes of executive session of Consumer Product Safety Commission on October 3, 1975, with attachment; 8 pages; updated.

[FR Doc. 83-34016 Filed 12-29-83; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240 and 249

[Release No. 34-20512; File No. S7-1006]

Net Capital Requirements for Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing amendments to Rule 15c3–1 (17 CFR 240.15c3–1) of the Securities Exchange Act of 1934 (the "Act"), the uniform net capital rule, and to Form X–17A–5 (17 CFR 249.617) (the "FOCUS" Report), to conform certain paragraphs of the rule, Appendicies B and D thereto and the FOCUS Report to certain amendments adopted by the Commodity Futures Trading Commission ("CFTC") to its net capital rule and financial reporting system. The proposed amendments will particularly affect those broker-dealers who are also registered with the CFTC as futures commission merchants (collectively "FCMs"). The Commission is also deleting a provision in its instructions to the FOCUS Report relating to the Commission's billing for payment of certain transaction fees. Finally, the Commission is proposing for comment certain technical amendments to the FOCUS Report to conform to net capital rule amendments the Commission made in 1982.

DATE: Comments should be submitted on or before February 6, 1984.

ADDRESSES: Interested persons should submit three copies of their views to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549, and should refer to File No. SR–1006. All submissions will be available for public inspection at the Commission's Public Reference Section.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, (202) 272–2904, or Steven J. Gray (202) 272–3113, Division of Market Regulation, 450 5th Street, NW. Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The CFTC has adopted amendments to its net capital rule regarding the treatment of exchange traded commodity options purchased and sold by FCM customers and of commodity options transaction in proprietary accounts of FCMs [1] and regarding the special prepayment of subordinated loans.[2] The CFTC also adopted certain minor definitional amendments to its rule [3] and in addition established registration, financial and recordkeeping requirements for introducing brokers.[4] The CFTC

[1] 47 FR 41513 (Sept. 21, 1982).
[2] 47 FR 22352 (May 24, 1982).
[3] 47 57001 (Dec. 22, 1982).
[4] 48 FR 35248 (Aug. 3, 1983).

recieved a number of comments to the proposed amendments which are discussed in its adopting releases. Those comments, in part, provided the basis upon which the determination to adopt the amendments was made.

The CFTC amendments regarding commodity option transactions, if adopted by the Commission, will alter the amount of net capital which must be maintained under the uniform net capital rule. In general, the amendments will require FCMs to maintain greater amounts of capital for each short commodity option customer position carried on its books and less capital for each long commodity option customer position. They will also affect the charges on proprietary commodity option positions.

Although the CFTC's amendments apply only to FCM's a substantial amount of commodity business is conducted by FCMs that are also registered with the Commission as securities broker-dealers. Such FCMs therefore become subject to the Commission's net capital rule. For this reason the CFTC's net capital rule and the Commission's net capital rule are almost identical.[5] Accordingly, the conforming amendments noted herein are necessary to insure that broker-dealers which are FCMs are not subject to inconsistent financial requirements.

I

The Commission's net capital rule provides that no broker-dealer may incur aggregate indebtedness in excess of 1500% of its net capital. The broker-dealer may however elect the alternative method of calculating net capital. In that event, it must maintain net capital equal 2% of its aggregate debit items computed in accordance with Rule 15c3-3a, Formula for Determination of Reserve Requirements for Brokers and Dealers. In either case, the Commission's rule provides that a broker-dealer which is registered as an FCM with the CFTC must maintain a minimum net capital equal to at least 4% of the funds required to be segregated pursuant to the Commodity Exchange Act.

In its amendments, the CFTC made changes to its net capital rule which affected both the amount of customer funds required to be segregated (on which the amount of required net capital depends) and the charges to net worth in computing net capital. The former change necessitated changes to the various early warning levels in its Rule. The CFTC also made a change to its rule affecting prepayment of subordinated loans. In addition, the CFTC made a change in the wording of its rule to use "physical" instead of "actual" to distinguish options on commodities from options on futures. Each of these amendments is explained below.

A. Customer Commodity Options

The CFTC amended its rule to exclude the market value of commodity options purchased by option customers traded on a board of trade from the segregation requirements of an FCM in computing its required net capital, althought that value will still be included in the segregation requirement. The deduction for each option customer is limited to the amount to customer funds in the customer's account. The effect of this amendment would be to lower the required net capital of FCMs, because the required net capital is based on the amount of funds required to be segregated.

The CFTC however amended its rule to require that an FCM deduct from its net worth in computing net capital 4 percent of the market value of commodity options sold by option customers on or subject to the rules of a contract market. The effect of this amendment is to increase the required net capital of FCMs.

The CFTC believed that the relative financial risks are less for an FCM when the customer is long or has purchased an option and greater when the customer is short or has granted (sold) an option. This belief is premised on the fact that an option at the time the option is purchased, while an option grantor (seller) typically margins his or her position.

B. Chargers for Proprietary Positions

The CFTC amended its rule in connection with commodity option positions carried by and FCM in its own accounts as distinguished from the accounts of its customers. For commodity options traded on a contract market, the charge will equal the charge of safety factor for futures positions carried by the FCM.[6] For commodity options not traded on a contract market a change in wording in the former provision was developed. The new wording, like the old, gives an "attributed value" to the commodity option position based on the difference between the option's exercise price and the market value for the physical or futures contract which is the subject of the option. A charge of 10 percent of the market value of the physical or futures contract is then imposed. The charge imposed cannot be greater than the "attributed value" given to such option.

In an unrelated change, the CFTC amended its rule to provide that an FCM's inventory which is currently registered as deliverable on a contrat market and covered [as defined by 1.17(j)] by a commodity option on a physical would get no net capital charge. Previously, its rule had allowed only a futures contract as cover for inventory registered as deliverable.

C. Introducing Brokers

The CFTC has adopted rules which establish registration, financial, reporting, and recordkeeping requirements for introducing brokers that introduce commodity customer transactions to FCMs. With regard to net capital, the CFTC determined that it was appropriate to allow up to 50% of an introducing broker's guarantee or security deposit with an FCM as an allowable asset for purposes of computing the introducing broker's net capital.

D. Miscellaneous Amendments

The CFTC adopted certain miscellaneous amendments to its net capital rule. In one amendment the CFTC increased from 7 to 10 percent the amount of net capital, in relation to the funds required to be segregated pursuant to the Commodity Exchange Act, as a threshold amount which an FCM may not go below after effecting a "special prepayment" of a subordinated loan.[7] The CFTC also adjusted the various early warning criteria in its rule to reflect the change made in the determination of segregated funds for net capital purposes. The CFTC also adopted the definition of "physical" to be used in place of the term "actual" when "actual" is used to refer to an option on the commodity itself as opposed to an option on a futures contract.

II

Form X-17A-5 (the "Focus Report")

1. The CFTC has also amended its Schedule of Segregation Requirements and Funds in Segregation to account for

[5] The CFTC's net capital rule binds broker-dealers who are also futures commission merchants. The portion of the CFTC's rule dealing with securities transactions was taken from the Commission's net capital rule. The Commission in turn adopted Appendix B to its net capital rule to conform its treatment of commodity transactions to the CFTC's net capital rule.

[6] For long positions, the safety factor shall not be greater than the market value attributed to the option.

[7] The amendment as to special prepayments will however be made applicable only to the revolving subordination provisions of paragraph (c)(5)(ii) of Appendix D to the Commission's net capital rule. The CFTC chose not to adopt that paragraph in its rule as originally adopted by the Commission.

customer positions in commodity options. Since the Sechedule is part of the FOCUS Report, it is appropriate to amend the FOCUS Report to include the new Schedule.

2. Additionally, the Commission proposes to amend the FOCUS Report to reflect the reduction in the required amount of net capital (from 4% to 2%) for those firms on the alternative method of computing net capital.

3. Finally, the Commission is deleting the final sentence in item 23 of the General Instructions of Schedule I of the FOCUS Report regarding transaction fees for non-exempted over-the-counter ("OTC") sales of exchange listed securities occurring during the preceding calendar year. That sentence states that the Commission would bill each respondent for such fees on or before March 15 of each year. Such deletion will not relieve broker-dealers of their obligations, pursuant to Section 31 of the Securities Exchange Act, to pay the transaction fees on or before March 15 of each year.

Conclusions

The various amendments to the CFTC rule discussed above appear to the Commission to be reasonable. The amendments are designed to provide uniformity and avoid duplicative requirements as well as additional reporting for futures commission merchants which are also broker-dealers. The Commission believes it is important to achieve uniformity in this area to the maximum extent practicable in the interests of fair and equitable regulation consistent with its regulatory responsibilities.

Statutory Authority

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3), 78w(a), the Commission proposes to amend § 240.15c3-1 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below.

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 605(b) the Chairman has certified that the proposed rule amendments would not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, is attached to the release.

List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Securities.

Text Of Proposed Amendments

It is proposed to amend Title 17 Chapter II of the CFR as follows:

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

1. By revising paragraphs (a), (e) and (f) of § 240.15c3-1 as follows:

§ 240.15c3-1 Net capital requirements for brokers and dealers.

(a) No broker or dealer shall permit his aggregate indebtedness to all other persons to exceed 1500 percent of this net capital. No broker or dealer which has elected the provisions of paragraph (f) of this section (in which case he is not subject to the aggregate indebtedness limitation in this paragraph) shall permit his net capital to be less than 2 percent of aggregate debit items as computed in accordance with § 240.15c3-3a of this chapter. No broker or dealer registered as a futures commission merchant shall permit his net capital to be less than 4% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account).

* * * * *

(e) *Limitation on withdrawal of equity capital.* No equity capital of the broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix C (17 CFR 240.15c3-1c) may be withdrawn by action of a stockholder or partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor or employee if, after giving effect thereto and to any other such withdrawals, advances or loans and any Payments of Payment Obligations (as defined in Appendix D (17 CFR 240.15c3-1d)) under satisfactory subordination agreements which are scheduled to occur within six months following such withdrawal, advance or loan, either aggregate indebtedness of any of the consolidated entities exceeds 1000 percent of its net capital or its net capital would fail to equal 120 percent of the minimum dollar amount required thereby or would be less than 5 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3-3a, or, if registered as a futures commission merchant, 7% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, or in the case of any broker or dealer included within such consolidation of the total outstanding principal amounts of satisfactory subordination agreements of the broker or dealer (other than such agreements which qualify as equity under paragraph (d) of this section) would exceed 70% of the debt-equity total as defined in paragraph (d). The term equity capital includes capital contributions by partners par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts. The term equity does not include securities in the securities accounts of partners' and balances in limited partners' capital accounts in excess of their stated capital contributions. This provision shall not preclude a broker or dealer from making required tax payments or preclude the payment to partners of reasonable compensation.

(f) *Alternative net capital requirement.* (1) A broker or dealer who is not exempt from the provisions of 17 CFR 240.15c3-3 under the Securities Exchange Act of 1934 pursuant to paragraph (k)(1) or (k)(2)(i) may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in paragraph (c)(1) of this section and certain deductions provided for in paragraph (c)(2) of this section. Such broker or dealer shall at all times maintain net capital equal to the greater of $100,000 ($25,000 in the case of a broker or dealer effecting transactions solely in municipal securities) or 2 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a), or, if registered as a futures commission merchant, 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater. Such broker or dealer shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission

in which the broker or dealer has its principal place of business, in writing, of its election to operate under this paragraph. Once a broker or dealer has determined to operate under this paragraph he shall continue to do so unless a change is approved upon application to the Commission.

(2) A broker or dealer who has consolidated pursuant to Appendix C (17 CFR 240.15c3–1c), shall maintain net capital equal to its net capital requirement and the total of each consolidated broker or dealer subsidiary's minimum net capital requirements.

* * * * *

2. By adding paragraph (a)(3)(x) to § 240.15c3–1b and by revising paragraphs (a)(3)(i)(B), (a)(3)(iii)(C), (a)(3)(ix)(A), (a)(3)(xiv) introductory text, (a)(3)(xiv) (B) and (D), (a)(3)(xv), and (a)(3)(xvi), of § 240.15c3–1b as follows:

§ 240.15c3–1b Adjustments to net worth and aggregate indebtedness for certain commodities transactions (Appendix B to 17 CFR 240.15c3–1).

(a) * * *

(3) * * *

(i) * * *

(B) The value attributed to any commodity option which is not traded on a contract market shall be the difference between the option's strike price and the market value for the physical or futures contract which is the subject of the option. In the case of a long call commodity option, if the market value for the physical or futures contract which is the subject of the option is less than the strike price of the option, it shall be given no value. In the case of a long put commodity option, if the market value for the physical commodity or futures contract which is the subject of the option is more than the striking price of the option, it shall be given no value.

* * * * *

(iii) * * *

(C) Receivables from registered futures commission merchants or brokers, resulting from commodity futures or option transactions, except those specifically excluded under paragraph (a)(3)(ii) of the section. In the case of an introducing broker or an applicant for registration as an introducing broker, include up to 50 percent of the value of a guarantee or security deposit with a futures commission merchant which carries or intends to carry accounts for the customers of the introducing broker.

* * * * *

(ix) * * *

(A) Inventory which is currently registered as deliverable on a contract market and covered by an open futures contract or by a commodity option on a physical—No charge.

* * * * *

(x) Deduct 4% of the market value of commodity options granted (sold) by option customers on or subject to the rules of a contract market.

* * * * *

(xiv) In the case of open futures contracts and granted (sold) commodity options held in proprietary accounts carried by the broker or dealer which are not covered by a position held by the broker or dealer or which are not the result of a "changer trade" made in accordance with the rules of a contract market, deduct:

* * * * *

(B) For a broker or dealer which is a member of a self-regulatory organization 150% of the applicable maintenance margin requirement of the applicable board of trade or clearing organization, whichever is greater; or

* * * * *

(D) For open contracts or granted (sold) commodity options for which there are no applicable maintenance margin requirements, 200% of the applicable initial margin requirement; *Provided*, the equity in any such proprietary account shall reduce the deduction required by this paragraph (3)(xiv) if such equity is not otherwise includable in net capital.

(xv) In the case of a broker or dealer which is a purchaser of a commodity option which is traded on a contract market the deduction shall be the same safety factor as if the broker or dealer were the grantor of such option in accordance with paragraph (a)(3)(xiv), but in no event shall the safety factor be greater than the market value attributed to such option.

(xvi) In the case of a broker or dealer which is a purchaser of a commodity option not traded on a contract market which has value and such value is used to increase net capital, the deduction is ten percent of the market value of the physical or futures contract which is the subject of such option but in no event more than the value attributed to such option.

* * * * *

3. By revising paragraphs (b)(6)(iii), (b)(7), (b)(8)(i), (b)(10)(ii)(B), (c)(2), (c)(5)(i), and (c)(5)(ii)(A) of § 240.15c3–1d as follows:

§ 240.15c3–1d Satisfactory Subordination Agreements (Appendix D to 17 CFR 240.15c3–1).

* * * * *

(b) * * *

(6) * * *

(iii) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (b)(6)(ii) of this section, the lender with the prior written consent of the broker or dealer and the Examining Authority for the broker or dealer may reduce the unpaid principal amount of the secured demand note. After giving effect to such reduction, the aggregate indebtedness of the broker or dealer may not exceed 1000 percent of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, net capital may not be less than 5% of aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or, if registered as a futures commission merchant, 7% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater. No single secured demand note shall be permitted to be reduced by more than 15% of its original principal amount and after such reduction no excess collateral may be withdrawn. No Examining Authority shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, net capital would be less than 120% of the minimum dollar amount required by 17 CFR 240.15c3–1.

(7) *Permissive Prepayments.* A broker or dealer at its option but not at the option of the lender may, if the subordination agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the scheduled maturity date of such Payment Obligation (hereinafter referred to as a "Prepayment"), but in no event may any Prepayment be made before the expiration of one year from the date such subordination agreement became effective. This restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (c)(5) of this Appendix D. No Prepayment shall be made, if, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerate maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on

which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 1000 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3–1 or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than 5% of its aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or if registered as a futures commission merchant, 7% of the funds required to be segregrated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, or its net capital would be less than 120% of the minimum dollar amount required by paragraph (f) of 17 CFR 240.15c3–1. Notwithstanding the above, no Prepayment shall occur without the prior written approval of the Examining Authority for such broker or dealer.

(8) *Suspended Repayment.* (i) The Payment Obligation of the broker or dealer in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of such broker or dealer under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such Payment Obligation) either (A) the aggregate indebtedness of the broker would exceed 1200 percent of its net capital, or in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3–3a or, if registered as a futures commission merchant, 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account) if greater, or (B) its net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3–1 including paragraph (f), if applicable. The subordination agreement may provide that if the Payment Obligation of the broker or dealer thereunder does not mature and is suspended as a result of the requirement of this paragraph (b)(8) for a period of not less than six months, the broker or dealer shall thereupon commence the rapid and orderly liquidation of its business but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of 17 CFR 240.15c3–1 and 240.15c3–1d.

* * * * *

(10) * * *

(ii) * * *

(B) The aggregate indebtedness of the broker or dealer exceeding 1500 percent of its net capital or, in the case of a broker or dealer which has elected to operate under paragraph (f) of 17 CFR 240.15c3–1, its net capital computed in accordance therewith is less than 2 percent of its aggregate debit items computed in accordance with 17 CFR 240.15c3–3a or, if registered as a futures commission merchant, 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, throughout a period of 15 consecutive business days, commencing on the day the broker or dealer first determines and notifies the Examining Authority for the broker or dealer, or the Examining Authority or the Commission first determines and notifies the broker or dealer of such fact;

* * * * *

(c) * * *

(2) *Notice of Maturity or Accelerated Maturity.* Every broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer, either the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3–1, or, in the case of a broker or dealer who is operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or, if registered as a futures commission merchant, 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account) if greater, or less than 120 percent of the minimum dollar amount required by paragraph (f) of 17 CFR 240.15c3–1.

* * * * *

(5) *Temporary and Revolving Subordination Agreements.* (i) For the purpose of enabling a broker or dealer to participate as an underwriter of securities or other extraordinary activities in compliance with the net capital requirements of 17 CFR 240.15c3–1, a broker or dealer shall be permitted, on no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date such subordination agreement became effective. This temporary relief shall not apply to a broker or dealer if, at such time, it is subject to any of the reporting provisions of 17 CFR 240.17a–11 under the Securities Exchange Act of 1934, irrespective of its compliance with such provisions or if immediately prior to entering into such subordination agreement either (A) the aggregate indebtedness of the broker or dealer exceeds 1000 per centum of its net capital or its net capital is less than 120% of the minimum dollar amount required by 17 CFR 240.15c3–1, or (B) in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital is less than 5% of aggregate debits computed in accordance with 17 CFR 240.15c3–3a or, if registered as a futures commission merchant, 7% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, or less than 120% of the minimum dollar amount required by paragraph (f) of this section, or (C) the amount of its then outstanding subordination agreements exceeds the limits specified in paragraph (d) of 17 CFR 240.15c3–1. Such temporary subordination agreement shall be subject to all other provisions of this Appendix D.

(ii) * * *

(a) After giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 900 per centum of its net capital or its net capital would be a less than 200 per centum of the minimum dollar amount required by 17 CFR 240.15c3–1 or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than 6% of the aggregate debit items computed in accordance with 17 CFR 240.15c3–3a or if registered as a futures commission merchant, 10% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account), if greater, or its net capital would be less than 200% of the minimum dollar amount required by paragraph (f) of 17 CFR 240.15c3–1 or

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

4. By revising Form X–17A–5 described in 17 CFR 249.617 by deleting the last sentence from item 23 of the General Instructions on page 4 of Schedule 1 relating to the Commission's billing for payment of transaction fees for over-the-counter sales of exchange listed securities. (Form X–17A–5 does not appear in the code of Federal Regulations).

By the Commission.

Dated: December 23, 1983.

Shirley E. Hollis,

Assistant Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendments to Rule 15c3–1 and to Form X–17A–5, if promulgated, will not have a significant economic impact on a substantial number of small broker-dealers. The proposed amendments are applicable only to those broker-dealers that are registered with the Commodity Futures Trading Commission ("CFTC") as futures commission merchants. They are designed merely to bring the Commission's net capital rule into conformity with the CFTC's net capital rule and should not have any economic impact in and of themselves. The principal effect of the amendments will be to avoid subjecting futures commission merchants to inconsistent regulatory provisions.

(Release No. 34–20512)

John S. R. Shad.

December 2, 1983.

[FR Doc. 83–34552 Filed 12–29–83; 8:45 am]

BILLING CODE 8010–01–M

VETERANS ADMINISTRATION

38 CFR Part 21

Emergency Veterans' Job Training Program

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations establish an Emergency Veterans' Job Training Program to assist eligible veterans in obtaining employment through training for employment in stable and permanent positions that involve significant training. The VA (Veterans Administration) makes payments to employers who employ and train eligible veterans in these jobs. The payments assist employers in defraying the costs of necessary training. These proposed regulatory provisions implement the provisions of the Emergency Veterans' Job Training Act of 1983. The regulations are liberalizing.

DATES: Comments must be received on or before January 30, 1984. Upon final publicaton, we propose to make these provisions retroactively effective on October 1, 1983.

ADDRESSES: Send written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at this address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until February 9, 1984. Anyone visiting VA Central Office in Washington, D.C. for the purpose of inspecting any of these comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

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

SUPPLEMENTARY INFORMATION: The proposed regulations permit a veteran to receive educational assistance allowance under certain circumstances while pursuaing an associate degree during an additional period of eligibility. This proposal also provides regulations which the VA will use in administering the Emergency Veterans' Job Training Program.

Upon final publication, we propose to make these regulations retroactively effective on October 1, 1983. Retroactive effect is justified for the following reasons. These regulations are liberalizing since they either grant an exemption, relieve a restriction or implement a new benefit program established by Pub. L. 98–77. Many of these provisions are interpretive rules which construe the meaning of, and carry out the Congressional intent of that law. Others are rules of VA organization, procedure or practice.

Moreover, the VA finds that good cause exists for proposing that these regulations, like the act which they implement, shall be made retroactively effective on October 1, 1983. As its name suggests, this is emergency job training legislation intended to help in quickly reducing the current high unemployment rate by offering an incentive to employers to train eligible veterans for stable jobs. Congress intended this program to begin quickly; appropriations were authorized only for the next 2 fiscal years, and such appropriations will be available for only a limited period of time.

To achieve the maximum benefit from this legislaiton it is necessary to begin the program as soon as possible. A delayed effective date for these regulations would be contrary to statutory design, and would complicate administration of the act. Also, since this is a completely new program, the public will not be harmed by a retroactive effective date. There are no preceding regulations for this program upon which the public might have come to rely. Therefore, good cause exists. For all of these reasons the VA finds that the assignment of a retroactive effective date for these regulations is appropriate.

and is consistent with the requirements of 38 CFR 1.12 and 5 U.S.C. 553.

The VA has determined that these proposed regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. Although the jobs training program will have an effect on the economy which will exceed $100 million, that effect will derive from the underlying statutory requirement to implement a new benefit program. The regulations will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Analysis

One of these proposed regulations will have an economic impact on small businesses. Hence, 5 U.S.C. chapter 6 requires that a regulatory flexibility analysis be written.

Proposed 38 CFR 21.4632(a) contains the criteria an employer must meet before the employer may receive payments monthly rather than quarterly. The agency is taking this action because it is required to do so by sec. 8 (a)(3), Pub. L. 98–77. The purpose of the regulation is to comply with the law and to relieve financial burdens on business enterprises with relatively few employees.

The small entities this will affect will be small entities with job training programs which meet the requirements of Pub. L. 98–77 and these proposed regulations. Since the law requires that employers who wish to be paid more frequently must also submit certifications to the VA more frequently, it is uncertain exactly how many employers will wish to be paid monthly. The VA estimates that there will be several thousand.

The employers who choose to be paid monthly rather than quarterly, will have no more recordkeeping or compliance requirements than those employers who are paid quarterly. However, the law requires that those employers who are paid monthly must certify monthly the number of hours trainees have worked. Those employers who are paid quarterly must certify this information quarterly. There are no professional skills (such as those listed in sec. 2(a)(3) of RFA) needed to make the additional certifications.

Since this regulation deals solely with making payments under a program which the VA administers, there are no other Federal rules which duplicate, overlap or conflict with the proposed § 21.4632(a).

The VA considered several alternatives to the proposed regulation. One of these alternatives was to require all employers with less than a certain number of employees to be paid monthly rather than quarterly. As stated above employers paid monthly will have to make more certifications than employers paid quarterly. Therefore, the VA decided not to make this a mandatory requirement.

The second alternative was to establish a different maximum number of employees for each industry or industrial group. However, establishing a different size standard for each industrial group would lead to definitional problems; would cause confusion; and would greatly complicate administration of the program.

Also, the Congress focused Pub. L. 98–77 on growth industries and on occupations requiring new technological skills. Such industries by their very nature may not even exist now or at the time these proposed regulations are made final. Rather than create the possibility of eliminating the option of monthly payments for the very industries which the law encourages veterans to enter, the VA decided not to provide a different number of employees standard for each industry or industrial group. Furthermore, the administrative complexity which would be introduced into the payment process by establishing separate standards for each industry could well cause delays in payment. This would defeat the purpose of permitting monthly payments.

The VA also considered the fact that the SBA (Small business Administration) administers several programs which require that agency to determine which business is a small business. Among these is the program for administering small business loans. Those firms seeking a loan are the firms most likely to have financial burdens. Accordingly, the VA considered whether to set the maximum at 500 employees, the number most often used by the SBA.

The agency decided not to do so. Direct small business loans may be made for $100,000. Under this job training program, an employer who is training one veteran would, if the employer were reimbursed quarterly rather than monthly, incur a maximum of $6,666.66 in payroll costs for which the employer would have to wait an additional 1 or 2 months before being reimbursed. The magnitude of the financial burdens resulting from ineligibility for an SBA loan, as compared with ineligibility for monthly Va reimbursement, are greatly different. Since the financial burdens resulting from delayed reimbursement for the job training program are much smaller than the burden of ineligibility for direct SBA small business loans, the VA decided that the maximum number of employees and employer may have and still be paid monthly should be lower than the 500 employee standard used by the SBA.

The agency also considered whether to set the maximum at fewer than 75 employees. The VA determined that employers with fewer than 75 employees will be more likely to experience cash-flow difficulties, since $6,666.66 is likely to be a significant portion of such an employer's quarterly payroll. Since the VA desires to relieve this type of financial burden, it has proposed this standard in these regulations. Comments are invited on this point.

The Administrator of Veterans Affairs hereby certifies that the remainder of these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the remainder of these proposed regulations, therefore, are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The regulations require an employer to certify that verious criteria exist in order to obtain approval for a job training program. This will have an economic impact on small entities. However, these regulations are based on sec. 7(d), Pub. L. 98–77 which states in detail the certifications that employers, are required to make. Hence, any economic impact resulting from these requirements derives from the law, not the implementing regulations.

The remainder of the regulations either will affect individual benefit recipients or, in the case of appeals when job training programs are disapproved, will apply to so few small entities i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions, that the impact will not be significant.

The information collection requirements contained in these regulations (§§ 21.4640 and 21.4642) have been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act of 1980. Comments on the information collection requirements should be directed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Veterans Administration, 726 Jackson Place, NW., Washington, DC 20503 (202–395–6880).

The Catalog of Federal Domestic Assistance number for the program affected by the proposed changes to §§ 21.1044, 21.4025 and 21.4230 is 64.111. There is no Catalog of Federal Domestic Assistance number for the new program established in the remainder of these proposed regulations.

List of Subject in 38 CFR Part 21

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

Approved: November 29, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

It is proposed to amend 38 CFR Part 21 as set forth below:

§ 21.1044 [Amended]

1. Section 21.1044 is amended as follows:

A. By removing the word "or" following paragraph (d)(1)(iv) and inserting the word "or" following paragraph (d)(1)(v).

B. By revising paragraphs (c) and (d)(2)(ii) and (iii) and adding paragraph (d)(1)(vi), (d)(2)(iv) and (v)(d)(4) and the introductory text in paragraph (e) as follows:

§ 21.1044 Additional period of eligibility.

* * * * *

(c) *Time and length of additional eligibility period.* (1) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is before January 1, 1982, and the veteran is not pursuing an associate degree program which is predominantly vocational in content, the beginning date of the additional eligibility period will be—

(i) The first date of attendance or training as certified by the school or training establishment, or

(ii) January 1, 1982, whichever is later.

(2) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is after December 31, 1981, and the veteran is not pursuing an associate degree program which is predominantly vocational in content, the beginning date of the additional eligibility period will be—

(i) The first date of attendance or training as certified by the school or training establishment, or

(ii) The first day following the end of the veteran's period of eligibility or extended period of eligibility, whichever is later.

(3) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is before October 1, 1983, and the veteran is pursuing an associate degree program which is predominantly vocational in content, the beginning date of the additional eligibility period will be the later of October 1, 1983 or whichever of the following dates is appropriate.

(i) If the associate degree is not a standard college degree, the first date of attendance, or

(ii) If the associate degree is a standard college degree, the date of registration, or date of reporting where the student is required by a published school standard to report in advance of registration.

(4) If the ending date of the veteran's period of eligibility as determined by § 21.1042 or § 21.1043 is after September 30, 1983, and the veteran is pursuing an associate degree program which is predominantly vocational in content, the beginning date of the additional eligibility period will be the later of the first day following the end of the veteran's period of eligibility or extended period of eligibility or whichever of the following is appropriate.

(i) If the associate degree is not a standard college degree, the first date of attendance, or

(ii) If the associate degree is a standard college degree, the date of registration, or date of reporting where the student is required by a published school standard to report in advance of registration.

(5) The ending date of an additional eligibility period is—

(i) The last day of attendance or training as certified by the school or training establishment, or

(ii) December 31, 1984, whichever is earlier. (38 U.S.C. 1662(a), Pub. L. 97-306, 96 Stat. 1429, sec. 18, Pub. L. 98-77, 97 Stat. 443)

(d) *Permissible Programs.* (1) During the period of eligibility the veteran may only pursue—

* * * * *

(vi) A program leading to an associate degree, provided that—

(A) The program is predominantly vocational in content, and

(B) Funds have been appropriated and remain available for the purpose of pursuing an associate degree during an additional period of eligibility, and

(C) The veteran will pursue the program after September 30, 1983. (38 U.S.C. 1662(a); sec. 18, Pub. L. 98-77, 97 Stat. 443)

(2) During this period of additional eligibility the veteran may not pursue—

* * * * *

(ii) A course leading to a bachelor's or higher degree;

(iii) A program of secondary education if he or she already has a secondary school diploma or an equivalency certificate; or

(iv) A program leading to an associate degree if—

(A) The associate degree program is not predominantly vocational in content, or

(B) Funds have not been appropriated for pursuit of an associate degree program during an additional period of eligibility, or

(C) The funds appropriated for pursuit of an associate degree during an additional period of eligibility have been exhausted; or

(v) Before October 1, 1983, any training leading to an associate degree. (38 U.S.C. 1662(a); sec. 18, Pub. L. 98-77, 97 Stat. 443)

* * * * *

(4) The Veterans Administration considers that a program leading to an associate degree is predominantly vocational in content when more than one-half the unit subjects required for the associate degree program are vocational in nature. (Sec. 18, Pub. L. 98-77, 97 Stat. 443)

(e) *Need requirements—vocational or occupational objective.* After September 30, 1983, and before January 1, 1985, the Veterans Administration will consider a program leading to an associate degree which is predominantly vocational in content to have a vocational objective as well as an educational objective. (Sec. 18, Pub. L. 98-77; 97 Stat. 443)

* * * * *

2. In § 21.4025, the introductory text of paragraphs (a) and (b) is reprinted for the convenience of the reader and paragraphs (a)(2) and (b)(3) are revised and paragraphs (a)(3) and (b)(4) are added as follows:

§ 21.4025 Nondupilcation; Federal programs.

(a) *Chapter 35.* Payment of educational assistance allowance and special training allowance are prohibited to an otherwise eligible person:

* * * * *

(2) For a unit course or courses which are paid for entirely or partly by the United States under the Government Employees' Training Act during any period that full salary is being paid him

or her as an employee of the United States; or

(3) During any period when the Veterans Administration is making payments under § 21.4632 on the eligible person's behalf to the eligible person's employer. (Sec. 13, Pub. L. 98-77, 97 Stat. 443)

(b) *Chapter 34.* Payment of educational assistance allowance is prohibited to an otherwise eligible veteran:

* * * * *

(3) For a unit course or courses which are being paid for entirely or partly by the United States under the Government Employees' Training Act during any period that full salary is being paid him or her as an employee of the United States; or

(4) During any period when the Veterans Administration is making payments under § 21.4632 on the veteran's behalf to the veteran's employer. (Sec. 13, Pub. L. 98-77, 97 Stat. 443)

§ 21.4025 [Amended]

3. The cross reference immediately following § 21.4025 is revised to read "See §§ 21.1025, 21.3024, 21.3025 and 21.4632"

4. In § 21.4131, paragraph (j) is added as follows:

§ 21.4131 Commencing dates.

* * * * *

(j) *Emergency Veterans' Job Training Act of 1983 (§ 21.4630).* The day following the last day for which the veteran's employer received payments on the veteran's behalf under the Emergency Veterans' Job Training Act of 1983. (Sec. 13, Pub. L. 98-77, 97 Stat. 443)

5. In § 21.4135, paragraph (y) is added as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(y) *Emergency Veterans' Job Training Act of 1983 (§ 21.4632).* The first day for which the veteran's employer received payments on the veteran's behalf under the Emergency Veterans' Job Training Act of 1983. (Sec. 13, Pub. L. 98-77, 97 Stat. 443)

6. In § 21.4230, paragraph (c) is revised as follows:

§ 21.4230 Requirements.

* * * * *

(c) *Professional or vocational.* A professional or vocational objective is one that leads to an occupation. It may include educational objectives essential to prepare for the chosen occupation. When a program consists of a series of courses not leading to an educational objective, such courses must be directed toward attainment of a designated professional or vocational objective. After September 30, 1983, and before January 1, 1985, the Veterans Administration will consider a program leading to an associate degree which is primarily vocational in content to have both an educational objective and a vocational objective. (Sec. 18, Pub. L. 98-77, 97 Stat. 443)

* * * * *

7. In Part 21, Subpart F-1 is added as follows:

Subpart F-1—Emergency Veterans' Job Training

Sec.

Job Training

21.4600 Job training.
21.4602 Definitions.

Eligibility Requirements for Participation in a Job Training Program

21.4610 Eligibility requirements.
21.4612 Application and certifications.

Approval of Employer Programs

21.4620 Program approval.
21.4622 Employer applications for approval.
21.4624 Withdrawal of approval.

Payments

21.4630 Entrance into training.
21.4632 Payments.
21.4634 Overpayments.

Administrative

21.4640 Inspection of records.
21.4642 Monitoring and investigations.
21.4644 False Claims Act.

Authority: Pub. L. 98-77, 97 Stat. 443.

Subpart F-1—Emergency Veterans' Job Training

Job Training

§ 21.4600 Job training program.

Sections 21.4600 through 21.4644 establish an Emergency Veterans' Job Training Program to assist eligible veterans in obtaining employment through training for employment in stable and permanent positions that involve significant training. The Veterans Administration makes payments to employers who employ and train eligible veterans in these jobs. The payments assist employers in defraying the costs of necessary training. (Sec. 4, Pub. L. 98-77, 97 Stat. 443)

§ 21.4602 Definitions.

For the purpose of the job training program described in §§ 21.4600 through 21.4644 the following definitions apply.

(a) *Veteran.* The term "veteran" means a person who—

(1) Served in the active military, naval or air service, as defined in paragraph (f) of this section, and

(2) Was discharged or released therefrom under conditions other than dishonorable. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(2))

(b) *Korean conflict.* The term "Korean conflict" means the period beginning on June 27, 1950 and ending on January 31, 1955. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(9))

(c) *Compensation.* The term "compensation" means a monthly payment made by the Veterans Administration to a veteran because of a service-connected disability. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(13))

(d) *Service-connected.* The term "service-connected" means, with respect to disability, that the disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval or air service. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(16))

(e) *State.* The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico. (Sec. 3, Pub. L. 98-77; 38 U.S.C. 101(20))

(f) *Active military, naval or air service.* The term "active military, naval or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled from an injury incurred or aggravated in line of duty. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(24))

(g) *Vietnam era.* The term "Vietnam era" means the period beginning August 5, 1964 and ending on May 7, 1975. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101 (29))

(h) *Growth industry.* A growth industry is one where, discounting for variations caused by the business cycle, employment is expected by the Bureau of Labor Statistics to increase at a rate faster than the average industry. (Sec. 6, Pub. L. 98-77, 97 Stat. 443)

(i) *Hours worked.* (1) Hours worked means—

(i) Hours the veteran worked or was trained on the job during the standard workweek and for which the veteran received wages.

(ii) All hours of the veteran's related training which occurred during the standard workweek and for which the veteran received wages, and

(iii) Legal holidays for which the veteran received wages.

(2) Hours worked do not include—

(i) Hours of work or training which exceed the hours of the standard workweek at the place where the veteran is being trained, or

(ii) Sick leave, annual leave, vacation time, administrative leave or time off in lieu of overtime pay other than legal holidays. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(j) *Full time.* The term "full time" means the standard workweek at the place where the veteran is being trained, but not less than 30 hours, unless a lesser number of hours is established as the standard workweek through collective bargaining between the employer and employees. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(k) *Employer.* The term "employer" means a person or business or other entity which is responsible for paying wages to the veteran and can make the certification required by § 21.4620(b). (Sec. 7, Pub. L. 98-77, 97 Stat. 443)

Eligibility Requirements for Participation in a Job Training Program

§ 21.4621 Eligibility requirements.

A veteran will be eligible to participate in a job training program established by § 21.4620 only if he or she meets the requirements of this section. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(a) *Unemployment.* (1) On the date of application the veteran must—

(i) Be unemployed, and

(ii) Have been unemployed for at least 15 of the 20 weeks immediately preceding the date of his or her application for participation in a job training program.

(2) For the purpose of this paragraph the Veterans Administration will consider that a veteran is unemployed during any period he or she—

(i) Is without a job (other than casual work),

(ii) Wants work, and

(iii) Is available for work. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(b) *Service requirements.* The veteran must have—

(1) Served in the active military, naval or air service for a period of more than 180 days, any part of which during the Korean conflict or the Vietnam era; or

(2) Served in the active military, naval or air service during the Korean conflict or the Vietnam era, and—

(i) Was discharged or released for a service-connected disability; or

(ii) Is entitled to compensation (or but for the receipt of retirement pay would be entitled to compensation). (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

§ 21.4612 Applications and certifications.

(a) *Application.* The veteran must apply for participation in the job training program using the form prescribed by the Veterans Administration. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(b) *Approval.* The Veterans Adminstration will approve a veteran's application to participate in a job training program if—

(1) The veteran meets all the requirements of § 21.4610, and

(2) Funds are available to pay employers under the program established in § 21.4600. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(c) *Certificates.* (1) Upon approving a veteran's application, the Veterans Administration will furish the veteran with a certificate for presentation to an employer with a job training program. The certificate will—

(i) State that the veteran is eligible;

(ii) State the date on which it is furnished to a veteran; and

(iii) State that approval of entrance into a job training program is subject to the availability of funds.

(2) A certificate expires 60 days from the date on which it is furnished to the veteran. A certificate may be renewed for an additional 60 days if at the time the veteran applies for renewal, the provisions of paragraph (b) of this section are met. (Sec. 5, Pub. L. 98-77; 97 Stat. 443)

Approval of Employer Programs

§ 21.4620 Program approval.

In order to receive assistance paid on behalf of a veteran, an employer must have a job training program which is approved by the Veterans Administration. That program must meet all the requirements of this section, and the employer must make the certifications found in § 21.4622.

(a) *Program requirements.* (1) The following criteria must be met by all programs.

(i) The training is for at least 6 months unless—

(A) The training is for at least 3 months, and

(B) The Veterans Administration finds that the training will meet the purposes of the Emergency Veteran's Job Training Program as stated in § 21.4600.

(ii) The training program must lead to employment in an occupation which has been determined by the Veterans Administration and the Department of Labor, as appropriate, either—

(A) To be in a growth industry; or

(B) To require the use of new technological skills, or

(C) To be one which the demand for labor exceeds supply, either in the United States as a whole or in the locality where the trainee will be employed.

(iii) The wages and benefits paid to the veteran participating in the program are not less than but are comparable to the wages and benefits normally paid to other employees participating in a comparable program of job training in the same community.

(iv) The job which is the objective of the program involves significant training.

(v) The training content of the program is adequate to accomplish the training objective of the program. In determining this, the Veterans Administration will consider—

(A) The occupation for which training to be provided, and

(B) The content of comparable training opportunities available which lead to the occupation.

(vi) The training period under the program is not longer than the training periods that employers in the community customarily require new employees to complete in order to become competent in the occupation for which training is provided.

(vii) The following are available in the training establishment as needed to accomplish the training objective of the program.

(A) Sufficient space,

(B) Equipment,

(C) Instructional material, and

(D) Instructor personnel.

(2) In order to provide all or part of a job training program an employer may enter into an agreement with an educational institution that has a course or courses which have been approved under § 21.4253 or § 21.4254 for the enrollment of veterans. (Secs. 6, 7 and 10, Pub. L. 98-77, 97 Stat. 443)

(b) *Program restrictions.* The Veterans Administration will not approve a program of job training—

(1) For employment which consists of seasonal, intermittent, or temporary jobs;

(2) For employment under which commissions are the primary source of income;

(3) For employment which involves political or religious activities;

(4) For employment with any department, agency, instrumentality or branch of the Federal Government (including the United States Postal Service and the Postal Rate Commission), or

(5) If the training will not be carried out in a State. (Sec. 7(b), Pub. L. 98-77, 97 Stat. 443)

§ 21.4622 Employer applications for approval.

(a) *Applications for approval of apprenticeships and job training*

programs. (1) An employer must apply to the Director, Education Service for approval of a program of apprenticeship—

(i) The standards for which have been approved by the Secretary of Labor under section 50a of title 29, United States Code as a national apprenticeship program for operation in more than one State, and

(ii) For which the training establishment is a carrier directly engaged in interstate commerce and providing training in more than one State.

(2) For all other job training programs the employer must apply for approval to the Director of the Veterans Administration field station having jurisdiction over the place where the veteran will be trained.

(3) On the application the employer will certify—

(i) The total number of hours of participation in the job training program to be offered the veteran;

(ii) The length of the job training program;

(iii) The starting hourly rate of wages to be paid to a participant in the program;

(iv) A description of the training content of the program (including the name of the educational institution, if any, with which the employer has an agreement to provide all or part of the job training program and a description of that agreement);

(v) The objective of the program;

(vi) That the job training program meets all the requirements of § 21.4620(a)(1) (iii) through (vii);

(vii) The employment of the veteran under the program—

(A) Will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work, wages or employment benefits), and

(B) Will not be in a job while another person is laid off from the same or substantially equivalent job, or will not be in a job the opening for which was created as a result of the employer having terminated the employment of any regular employee or otherwise having reduced its work force with the intention of hiring a veteran in the job training program;

(viii) That the employer will not employ in the program of job training a veteran who is already qualified for the job for which the training is to be provided;

(ix) That each participating veteran will be employed full time in the job training program;

(x) That the employer will keep records which are adequate—

(A) To show the progress made by each veteran participating in the program;

(B) To demonstrate that all the requirements exist for approval of the program and paying employers on behalf of veterans participating in the program.

(xi) That the employer is planning—

(A) Upon the veteran's completion of the job training program to employ the veteran in the position for which he or she has been trained, and

(B) That the position will be available on a stable and permanent basis to the veteran at the end of the training period.

(xii) The address of the location where the records described in subparagraph (3)(x) of this paragraph will be kept;

(xiii) If the employer desires to be paid monthly, the number of employees the employer has;

(xiv) If the employer is basing the request for approval on the grounds that the job training program leads to an occupation requiring the use of new technological skills, a statement of what those skills are;

(xv) That the employer, before the veteran's entry into training will—

(A) Furnish the veteran with a copy of the certification described in this paragraph, and

(B) Obtain and retain the veteran's signed acknowledgement of having received the certification; and

(xvi) That the employer is in compliance with—

(A) Title VI of the Civil Rights Act of 1964.

(B) Title IX of the Education Amendments of 1972, and

(C) Section 504 of the Rehabilitation Act of 1973. (Secs. 6 and 7, Pub. L. 98–77, 97 Stat. 443; 20 U.S.C. 1681, 29 U.S.C 794, 42 U.S.C. 2000d–1)

(b) *Veterans Administration action upon receipt of the application.* (1) Upon receipt of the application, the Director of the field station of jurisdiction will approve the job training program if—

(i) The program meets the requirements of § 21.4620(a);

(ii) None of the restrictions contained in § 21.4620(b) apply to the program;

(iii) The employer has made the certification required in paragraph (a) of this section; and

(iv) The Director has no evidence that the certification may be inaccurate.

(2) In determining whether the provisions of § 21.4620(a)(1) (iii) through (vii) are met and whether the certification is accurate, the Director will—

(i) Assume that the provisions have been met and that the certification is accurate if the job training program for which the employer is seeking approval has already been approved for training under § 21.4261 or § 21.4262, or the entire job training program is to be given by an educational institution which already has a course or courses approved for training under § 21.4250.

(ii) Consider any information the Department of Labor may have concerning the employer and the job training program; and

(iii) Consider any other evidence which may show whether or not the certification is accurate and whether or not the provisions of § 21.4620(a)(1) (iii) through (vii) are met.

(3) The Director of the Veterans Administration field station will notify the employer in writing of the approval or disapproval of this program.

(4) The effective date of the approval will be the later of—

(i) The date the employer applied for approval, or

(ii) November 29, 1983. (Sec. 7, Pub. L. 98–77 Stat. 443)

(c) *Review of a decision not to approve a program.* (1) If an employer disagrees with the decision of the Director of the Veterans Administration field station not to approve the program, the employer may ask that the decision be reviewed by the Director, Education Service. The request—

(i) Must be in writing to the Director of the Veterans Administration field station, and

(ii) Must be received by the Veterans Administration within 60 days of the date on which the employer was notified of the disapproval.

(2) Upon receipt of a valid request for a review, the Director of the Veterans Administration field station will submit all the evidence of record to the Director, Education Service.

(3) The Director, Education Service has the authority to affirm or reverse a decision of the Director of a Veterans Administration field station not to approve a job training program. The Director, Education Service shall base his or her decision on the requirements and restrictions found in § 21.4620 and in paragraph (a) of this section.

(4) A decision concerning approval or disapproval of a job training program made by the Director, Education Service is final and is not subject to further administrative review. (Sec. 7, Pub. L. 98–77, 97 Stat. 443)

§ 21.4624 Withdrawal of approval.

(a) *Approval may be withdrawn.* (1) The Director of a Veterans

Administration field station may immediately disapprove the further participation of veterans in a job training program which has been previously approved when—

(i) The program ceases to meet the requirements of § 21.4620, or

(ii) The Director finds that the employer's certification under § 21.4622 was false, or

(iii) The employer refuses to make available to an authorized representative of the Federal Government those records which the employer is required to keep under § 21.4640.

(2) The Director of the field station of jurisdiction shall notify the employer and all veterans participating in the program that approval of the program is being withdrawn. The notices shall be by a certified or registered letter, return receipt requested, and shall include—

(i) A statement of the reasons for the withdrawal of approval, and

(ii) An opportunity for a hearing for an employer or a veteran with respect to withdrawal of approval, provided a hearing is requested within 60 days of the notice.

(3) The hearing will be held before the Committee on Educational Allowances in the field station as established by § 21.4207. If more than one person requests a hearing. The Veterans Administration may hold one hearing, where feasible, for all persons who may wish to be heard. The Veterans Administration will not pay for any expenses incurred for counsel or witnesses. The Committee will recommend to the Director whether or not to reinstate the approval. The Director may affirm or reverse the Committee's recommendation. The Director's decision shall be final unless the employer seeks a review as provided in paragraph (a) (4) of this section.

(4) An employer or veteran who disagrees with the decision of a Director of a Veterans Administration field station to withdraw approval from a job training program may request that the decision be reviewed by the Director, Education Service. The employer or veteran may waive the right to a hearing before the review. The request—

(i) Must be made in writing to the Director of the Veterans Administration field station, and

(ii) Must be received by the Veterans Administration within 60 days of the date the Director notified the employer or veteran of the decision to withdraw approval, or if a hearing was held at the employer's or veteran's request, within 60 days of the date the decision was affirmed by the station Director.

(5) Upon receipt of a valid request for a review the Director of the Veterans Administration field station will forward all evidence of record, including a transcript of the hearing if one was held, to the Director, Education Service. The Director, Education Service has the authority to affirm or reverse a decision of the Director of a Veterans Administration field station. (Sec. 11, Pub. L. 98–77, 97 Stat. 443)

(b) *Renewal of approval.* In the event that an employer takes steps to bring a job training program back into compliance with the provisions of § 21.4620, the employer may request that a job training program be reapproved. (Sec. 7, Pub. L. 98–77, 97 Stat. 443)

(c) *Authority of the Director, Education Service.* (1) If in the course of his or her administrative duties the Director, Education Service finds that the Director of a Veterans Administration field station approved a job training program in error, the Director, Education Service may direct the Director of the Veterans Administration field station to withdraw the approval in accordance with the procedures outlined in paragraph (a) of this section.

(2) If the Director, Education Service finds that an approval was withdrawn in error, he or she may direct the Director of a Veterans Administration field station to renew the approval without applying the procedures set forth in paragraph (b) of this section. (Secs. 6, 7 and 11, Pub. L. 98–77, 97 Stat. 443)

§ 21.4630 Entrance into training.

(a) *Lack of funds may prevent training.* Even though an eligible veteran may be in an approved job training program, the Veterans Administration may withhold or deny approval of the veteran's entry into a job training program if the the Veterans Administration determines that funds are not available to make payments to the employer on behalf of the veteran. (Sec. 9, Pub. L. 98–77, 97 Stat. 443)

(b) *Certification before entry into training.* (1) Before the eligible veteran enters an approved job training program, the employer shall notify the Director of the Veterans Administration Regional Office, Houston, Texas that the employer intends to hire the veteran.

(2) The veteran may begin the job training program and the Veterans Administration will make payments to the employer on the veteran's behalf unless within 2 weeks from the date of the notice described in subparagraph (1) of this pragraph, the Veterans Administration notifies the employer that approval of the veteran's entry into the job training program must be withheld or denied due to lack of funds. In determining whether 2 weeks have elapsed, the Veterans Administration will measure the time between the date the employer's notice to the Veterans Administration was postmarked and the date the Veterans Administration's response to the employer was postmarked. (Sec. 9, Pub. L. 98–77, 97 Stat. 443).

(c) *Counseling.* At the request of a veteran who is eligible to participate in a job training program, the Veterans Administration will provide the veteran with employment counseling services to assist him or her in selecting a suitable job training program. The provisions of 21.4104 apply to this counseling. (38 U.S.C. 111, Sec. 14, Pub. L. 98–77, 97 Stat. 443)

§ 21.4632 Payments.

The Veterans Administration shall not make payments to an employer if the job training program has not been approved as required by § 21.4622(b), or the veteran does not meet the eligibility requirements found in § 21.4610, or approval of a veteran's entrance into training must be withheld or denied due to a lack of funds. Payments made to employers on behalf of veterans in training shall be made in accordance with the provisions of this section.

(a) *Time of payments.* (1) The Veterans Administration shall make payments monthly to any employer who—

(i) Wants monthly payments, and

(ii) Has fewer than 75 employees at the time the veteran enters training.

(2) The Veterans Administration shall make payments quarterly to employers other than those described in subparagraph (1) of this paragraph. (Sec. 8, Pub. L. 98–77, Stat. 443)

(b) *Amount of payments.* Subject to the limitations stated in paragraph (e) of this section the amount paid to an employer for any period of time shall be 50 percent of the product of—

(1) The starting hourly wage paid by the employer to the veteran (without regard to overtime, premium pay or fringe benefits), and

(2) The number of hours the veteran worked during that period. (Sec. 8, Pub. L. 98–77, 97 Stat. 443)

(c) *Release of payments.* (1) The Veterans Administration will not pay an employer for a period of training on behalf of a veteran unless all of the criteria contained in this paragraph are met.

(2) Unless the veteran is deceased, has moved, has quit, has had his or her employment terminated, or is similarly

unavailable, the Veterans Administration must receive from the veteran a certification that he or she was employed full time by the employer in a job training program during the period.

(3) The Veterans Administration must receive from the employer a certification—

(i) That the employer employed the veteran during that period in an approved job training program.

(ii) That the veteran's performance and progress during that period was satisfactory.

(iii) The number of hours the veteran worked during the period, and

(iv) If this is the employer's first certification for the veteran—

(A) The date the veteran's employment began, and

(B) The starting hourly rate of wages paid to the veteran (without regard to overtime, premium pay or fringe benefits).

(d) *Duration of payments.* (1) The maximum period of training for which the Veterans Administration will pay an employer on behalf of a veteran is—

(i) Fifteen months in the case of—

(A) A veteran with a service-connected disability rated at 30 percent or more, or

(B) A veteran with a service-connected disability rated at 10 or 20 percent who has been determined under 38 U.S.C. 1506(a) to have a serious employment handicap; and

(ii) Nine months in the case of any other eligible veteran.

(2) If the veteran trains in an approved job training program after having trained in one more other training programs, the duration of payments made to the employer will be the time period determined by subparagraph (1) of this paragraph less the period of time paid on the veteran's behalf to his or her previous employer or employers. (Sec. 5, Pub. L. 98–77, 97 Stat. 443)

(e) *Limitations on payments.* (1) The total amount that may be paid to an employer on behalf of a veteran participating in a job training program is $10,000.

(2) The Veterans Administration will not pay an employer—

(i) On behalf of any veteran who applies for a job training program after November 28, 1984.

(ii) For any job training program which begins after February 28, 1985.

(iii) For any training given to the veteran before the effective date of approval of the job training program.

(iv) For any training the veteran completed after the Veterans Administration withdrew approval of the job training program;

(v) During any period of time in which the veteran receives benefits under chapters 31, 32, 34, 35 or 36 of title 38, United States Code.

(vi) For any period during which the employer received any form of assistance on account of the veteran's training or employment including—

(A) Assistance under the Job Training Partnership Act (29 U.S.C. 1501 et. seq.) or

(B) A credit under section 44B of the Internal Revenue Code of 1954 (26 U.S.C. 44B).

(vii) For any hours of training the veteran completes in excess of the hours approved by the Veterans Administrations for his or her job training program.

(viii) For any period for which the employer—

(A) Fails to provide the certification required by paragraph (c)(3) of this section.

(B) Fails to maintain records or fails to make them available to authorized representatives of the Federal Government as required by § 21.4640.

(ix) For any period if, during that period, the employer was in violation of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 or Sec. 504 of the Rehabilitation Act of 1973. (Secs. 7, 11, 13, and 17, Pub. L. 98–77, 97 Stat. 443; 20 U.S.C. 1681, 29 U.S.C. 794, 42 U.S.C. 2000d–1)

§ 21.4634 Overpayments.

(a) *False certification by employer.* Whenever the Veterans Administration finds that an overpayment has been made to an employer on behalf of a veteran as a result of a certification or information contained in the employer's application to the Veterans Administration which was false in any material respect, the amount of the overpayment shall constitute a liability of the employer to the United States. (Sec. 8, Pub. L. 98–77, 97 Stat. 443)

(b) *Noncompliance by employer.* Whenever the Veterans Administration finds that an employer has failed to comply with a requirement of § 21.4620 or § 21.4622 or both (unless the employer's failure is the result of false or incomplete information provided by the veteran), each amount paid to the employer on behalf of a veteran for that period shall be considered an overpayment. The amount of the overpayment shall constitute a liability of the employer to the United States. (Sec. 8, Pub. L. 98–77, 97 Stat. 443)

(c) *False certification by veteran.* Whenever the Veterans Administration finds that an overpayment has been made to an employer on behalf of a veteran as a result of certification by the veteran, or as a result of information provided to an employer or contained in an application submitted by the veteran to the Veterans Administration which, was willfully or negligently false in any respect, the amount of the overpayment shall constitute a liability of the veteran to the United States. (Sec. 8, Pub. L. 98–77, 97 Stat. 443)

(d) *Waivers of overpayments.* Any overpaymant established under this section may be waived, entirely or partly, as provided by §§ 1.955 through 1.970 of this chapter. (Sec. 8, Pub. L. 98–77, 97 Stat. 443)

(e) *Recovery of overpayments.* (1) Any overpayment referred to in paragraph (a), (b) or (c) of this section may be recovered in the same manner as any other debt due the United States.

(2) If both the veteran and employer are found liable to the United States under paragraph (a), (b) or (c) of this section for all or part of the overpayment, they shall be considered to be jointly and severally liable to the extent of their respective liabilities. (Sec. 8, Pub. L. 98–77, 97 Stat. 443)

Administrative

§ 21.4640 Inspection of records.

(a) *Availability of records.* The records and accounts of employers pertaining to veterans on behalf of whom assistance shall be paid, as well as other records that the Veterans' Administration determines to be necessary to ascertain compliance with the requirements established in §§ 21.4620 through 21.4632, shall be available at reasonable times for examination by authorized representatives of the Federal Government. (Sec. 12, Pub. L. 98–77, 97 Stat. 443)

(b) *Retention of records.* An employer must keep the records mentioned in paragraph (a) of this section intact and in good condition for at least 3 years following the last month or quarter for which the employer received a payment on behalf of the veteran. Longer retention is not required unless the employer receives a written request from the General Accounting Office or the Veterans' Administration not later than 30 days before the end of the 3-year period. (Sec. 12, Pub. L. 98–77, 97 Stat. 443)

§ 21.4642 Monitoring and investigations.

(a) *Monitoring and investigations.* The Veterans' Administration may determine compliance with the provisions of §§ 21.4620 through 21.4632 by—

(1) Monitoring employers and veterans participating in job training programs,

(2) Investigating any matter necessary to determine compliance, and

(3) Requiring the submission of information deemed necessary by the Administrator of Veterans' Affairs before, during or after training. Sec. 12, Pub. L. 98–77, 97 Stat. 443)

(b) *Scope of investigations.* The Veterans' Administration will carry out the monitoring and investigative functions contained in paragraph (a) of this section by—

(1) Examining records (including making certified copies of records),

(2) Questioning employees, and

(3) Entering into any premises or on to any site where—

(i) Any part of the job training program is conducted, or

(ii) Any of the employer's records are kept. (Sec. 12, Pub. L. 98–77, 97 Stat. 443)

§ 21.4644 False Claims Act.

An individual who attempts to obtain payments on behalf of veterans through submission of false or misleading statements is subject to the provisions of the False Claims Act (31 U.S.C. 3729–3731, 18 U.S.C. 1001ff).

(31 U.S.C. 3729–3731, 18 U.S.C. 1001ff)

[FR Doc. 83-34063 Filed 12-29-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD–FRL 2498–4]

Approval and Promulgation of State Implementation Plan; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to approve the state-wide lead implementation plan (SIP) developed jointly by the Puget Sound Air Pollution Control Agency (PSAPCA) and the Washington State Department of Ecology (WDOE) submitted to EPA on September 13, 1983. Upon final approval by EPA the lead plan will become a federally enforceable part of the SIP as required by the Clean Air Act (hereinafter referred to as the Act).

DATE: Comments must be received or postmarked on or before January 30, 1984.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

State of Washington, Department of Ecology, 4224 6th Avenue, SE., Rowe Six, Building #4, Lacey, Washington 98504.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–4016, FTS: 399–4016.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978 EPA promulgated a standard for lead. The Clean Air Act requires the states to submit SIPs nine months after a criteria pollutant is designated—in this case by July 6, 1979. EPA then had four months, until November 5, 1979, to approve the state plans or promulgate its own.

In 1979 WDOE began development of a lead control plan for Harbor Island Washington and a corridor along Interstate-5 through Seattle. WDOE submitted the plan to EPA on July 30, 1980. Major deficiencies in the Harbor Island control strategy were identified. After further discussion with the WDOE and PSAPCA, EPA funded a special study in July 1981 designed to better characterize the source(s) of emissions from the secondary lead smelter on Harbor Island. Subsequently, EPA notified the WDOE that, because it planned major revisions, EPA would discontinue processing of the SIP submitted on July 30, 1980.

The special project to characterize emissions from the secondary lead smelter was completed in December 1982. With additional dispersion modeling and economic evaluation assistance supplied by EPA, a revised SIP was developed and a draft submitted to EPA on June 1, 1983. At the same time a joint WDOE and PSAPCA public hearing was announced for July 14, 1983. At that hearing the plan was adopted by the PSAPCA Board of Directors and officially submitted to WDOE. WDOE submitted the lead SIP to EPA on September 13, 1983.

II. Technical Evaluation

Lead SIP

The requirements for an approvable lead SIP are contained in 40 CFR Part 51, Subpart E. The technical evaluation document (TED) prepared by EPA and included in the Washington State Lead SIP Docket, contains EPA's evaluation of the Washington Lead SIP in terms of each requirement in Subpart E. The following is a summary of the SIP in terms of the Subpart E requirements:

1. Attainment Demonstration—At present the lead problem in Washington is the result of emissions from a large secondary lead smelter located on Harbor Island in the industrial district of Seattle. The SIP contains a compliance schedule calling for a two stage control program with compliance as early as July 1, 1985 but no later than January 1, 1987. The control program was developed based on the results of dispersion modeling and a chemical mass balance analysis.

The other major point source in Washington is a primary copper smelter in Tacoma. The current ambient lead levels associated with the smelter emissions since 1980 are consistently less than 0.54 ug/m^3, quarterly mean. However, these lead values may be influenced downward by the smelter's use of emissions curtailment during adverse meteorological conditions. Because of this, EPA is requiring WDOE to demonstrate attainment of the standard using dispersion modeling without emissions curtailment. EPA anticipates no problems with demonstration of attainment and is proposing to approve this part of the SIP. Final approval will be based on receipt of an adequate demonstration of attainment for the copper smelter.

The automotive-based lead has ceased to be a problem due to the Federal lead in gasoline phase down program. No additional control is anticipated in this area.

2. Emission Data—The SIP contains emission inventory information in relation to the two major point sources, one of which is the cause of the only remaining standard violations in the state. Appropriate assumptions and emission projection techniques are presented.

3. Air Quality Data—The SIP presents air quality data from 1977 to 1982, and identifies 1982 as the base year.

4. New Source Review—The SIP identifies the regulatory structure by which all new or modified sources on Harbor Island will be reviewed to ensure these emitting greater than 0.6 tons per year will not cause new violations and that attainment of the standard will not be delayed. These provisions have been adopted and will be submitted as a separate SIP revision.

The currently approved SIP (46 FR 62064) includes statewide review for all new and modified sources in WAC 173–400. The purpose of the review is to

assure that no new violations will occur and that attainment will not be delayed.

Air Quality Monitoring

The SIP also contains a description of the current statewide lead monitoring network. WDOE's lead monitoring network meets the requirements of 40 CFR Part 58 (Ambient Air Quality Surveillance). In addition, the lead ambient air quality analysis method satisfies the EPA requirements in 40 CFR Part 50.

III. EPA Proposed Action

Based on evaluation of WDOE's submittal, EPA proposes to approve the Washington lead SIP and the lead air quality monitoring network. Final approval will be based upon submittal of a demonstration which verifies attainment for the area around the copper smelter in Tacoma. The State has agreed to submit this information by March 31, 1984.

Interested parties are invited to comment on all aspects of this proposed approval of the Washington lead SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of the Notice. Public comments postmarked by 30-days from publication will be considered in any final action EPA takes on this proposal.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under section 110 within the terms of the January 27, 1981 certification.

Under Executive Order 12291, EPA must judge whether or not a regulation is "major" and therefore subject to the requirements of regulatory impact analysis. This regulation is not judged to be major, since it merely approves actions taken by the state and does not establish any new requirements.

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

This notice of proposed rulemaking is issued under that authority of sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: December 23, 1983.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 83-34481 Filed 12-29-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 60

[AD-FRL-2280-3]

Standards of Performance for New Stationary Sources VOC Emissions From the Sythetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Unit Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed synthetic organic chemical manufacturing industry (SOCMI) distillation facilities. The proposed standards would require one of the follwing for each distillation vent stream: use of a combustion device which reduces total organic compound emissions (minus methane and ethane) by 98 weight percent or to 20 pmm (by volume), use of a flare, or maintenance of a total resource effectiveness (TRE) index value greater than 1.0.

The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that the SOCMI contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intent of the proposed standards is to require new, modified, and reconstructed SOCMI distillation facilities to control emissions to the level achievable through use of the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or agruments concerning the proposed standards and amendment to the General Provisions.

DATES: *Comments.* Comments must be received on or before March 13, 1984.

Public Hearing: If anyone contacts EPA requesting to speak to a public hearing by January 20, 1984, a public hearing will be held on February 14, 1984. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing: Persons wishing to present oral testimony must contact EPA by February 7, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-80-25, U.S. Environmental Protection Agency, 401 M. Street, SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing, it will be held at Research Triangle Park, N.C. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Ms. Shelby Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Distillation Operations in Synthetic Organic Chemical Manufacturing, Background Information for Proposed Standards," EPA Publication No. 450/3-83-005a.

Docket. Docket Number A-80-25, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel, (919) 541-5596, concerning technical aspects of the industry and control technologies, and Mr. Gilbert H. Wood, (919) 541-5578, concerning regulatory decisions. The address for both parties is Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711. As indicated above, please call the U.S. EPA Library for background information documents.

SUPPLEMENTARY INFORMATION:

Proposed Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

* * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of

achieving such emission reduction, and any nonair quality health, and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or BDT.

The Administrator has determined that BDT for VOC emissions for most distillation facilities is combustion in a device that reduces total organic compounds (minus methane and ethane) by 98 percent or 20 parts per million by volume (ppmv). This degree of control can be attained for each distillation operation through the use of at least one of the following devices: incinerators, flares, boilers, or process heaters. Due to variations in factors such as flowrate and organics concentration, the total costs per unit VOC emission reduction of using any of these combustion devices would vary considerably among the different types of distillation facilities. The Administrator has determined that for some distillation facilities, the cost of using a combustion device is unreasonably high and BDT is no control. To distinguish between those facilities for which BDT is combustion achieving 98 percent control or 20 ppmv and those facilities for which BDT is no control, a means of measuring the total cost to control emissions from distillation facilities by combustion was developed. This means of measuring the cost of control is called the total resource-effectiveness (TRE) index and is explained more fully in the section entitled "Selection of Best Demonstrated Technology."

The proposed standards would require each owner or operator of an affected facility to reduce process vent stream emissions by 98 weight percent (or to 20 ppmv whichever is less stringent) with combustion or maintain a TRE index value greater than 1.0 without combustion. If a boiler or process heater were used to reduce organic compound emissions by 98 percent, the proposed standards also would require that the distillation vent stream be introduced in the flame zone of the boiler or process heater. A steam-assisted flare, an air-assisted flare, and a flare with no assist are considered to achieve 98 percent emission reduction and may be used to meet the standards, provided that the net heating value of the flared stream is greater than 11.2 MJ/scm (300 Btu/scf) for steam-assisted and air assisted flares or 7.45 MJ/scm (200 Btu/scf) for a flare without assist, the velocity of the exit stream from the flare is less than a maximum value specified in the regulation, and the flare is operated smokelessly. The affected facility is designated as any individual distillation column plus all associated product recovery equipment.

Equations are included in the regulation for determining the TRE index value of each vent stream. The process vent stream flowrate, organic emission rate (minus methane and ethane), net heating value, and corrosion properties (whether or not halogenated compounds are present) would be required to be measured according to the specified Reference Methods in order to calculate the TRE index value. These vent stream characteristics would be measured following the last product recovery device (e.g., condensers, absorbers, carbon adsorbers). The structure of the proposed standards allows an affected facility with a TRE index value of less than 1.0 to add a product recovery device or to improve an existing product recovery device to change the vent stream characteristics used for calculating the TRE index value so that the TRE index value would be above 1.0 and a combustion device would not be required. An owner or operator might choose to improve product recovery rather than use a combustion device in some cases due to the lower cost of improved product recovery. Increased product recovery would also have the advantage over combustion devices of increased retention of product and, in some cases, less energy usage.

Each owner or operator complying with the proposed standards by using an incinerator would be required to monitor continuously and record the firebox operating temperature (or, if a catalytic oxidizer were used, the temperature before and after the catalyst bed) and vent stream flowrate. If a boiler or process heater were used to comply with the proposed standards, the owner or operator would be required to monitor and record continuously the vent stream flow to the device and the firebox operating temperature. For boilers or process heaters of 44 MW (150 million Btu/hr) design heat input capacity or greater, records (such as steam production records) would be required which would verify the periods of operation of the heat generating unit instead of continuously monitoring the firebox operating temperature. Each owner or operator complying with the proposed standards by using a smokeless flare would be required to monitor continuously the temperature of the pilot flame. If the VOC reduction requirements were achieved by other means, the owner or operator would be required to provide information describing the operation of the control device and the parameter(s) that indicate proper operation and maintenance of the device so that the enforcing agency could specify appropriate monitoring requirements.

Each owner or operator electing to comply with the proposed standards by maintaining a process vent stream TRE index value above 1.0 would be required to monitor continuously and record specified operating parameters of the final piece of product recovery equipment. The specified operating parameters are condenser exist (product side) operating temperature; absorber liquid temperature; specific gravity (or an alternative measure of absorbing liquid saturation, if approved by the enforcing agency); carbon adsorption bed temperature [after regeneration and completion of any cooling cycle(s)]; and steam flowrate. The owner or operator would also be required to maintain records of changes in production capacity; feedstock, identity; catalyst identity; or of replacement, removal, or addition of product recovery equipment. When any such change takes place, the owner or operator of the facility would be required to recalculate the TRE index value to document that the facility continues to have a TRE index value above 1.0. Such recalculation can be based on test data reflecting the changes in the system, or best engineering estimates of the effects of the changes. If the recalculated TRE index value for the facility is less than 1.0, the owner or operator would have to demonstrate compliance with the 98 percent reduction or 20 ppmv emission limit.

The proposed standards require that records of certain operating parameters be maintained to ensure the proper operation and maintenance of combustion control equipment or other equipment used to reduce VOC emissions. Furthermore, records of instances where these monitored values exceed allowable limitations must be maintained. In addition to maintaining these records, an owner or operator must submit a semiannual report of the recorded exceedances. The requirement of semiannual reporting may be waived for affected facilities in States that have been delegated authority for enforcement provided EPA approves the reporting requirements or alternative means of compliance surveillance adopted by the State and the affected facilities comply with the requirements established by the State.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and cost impacts associated with the proposed standards were projected by estimating

the growth in distillation facilities and by using a national statistical profile of offgas characteristics at existing plants. The offgas parameters included were offgas flowrate, net heating value, organics emission rate, and corrosion properties (presence or absence of halogenated compounds). These characteristics are the major determinants of the emission and cost impacts of applying controls to these sources. It was assumed that the national distribution of these offgas parameters for new sources would be the same as the distribution for existing sources. Determination of these impacts was based on the use of flares or boilers for nonhalogenated streams and incinerators for halogenated streams. If it were assumed that all nonhalogenated streams required to be controlled were to use flares rather than boilers, the control costs and energy impacts would be overstated since in some cases, boilers, which are less costly due to energy savings, would be used instead of flares to control VOC. If it were assumed that all nonhalogenated streams required to be controlled would use boilers, then of course the cost and energy impacts would be understated. It is not possible to determine in how many cases boilers would be used and in how many cases flares would be used. The criteria for selecting which combustion device will be used is specific to each distillation operation and includes chemical, process route, site, and individual company economic policy. The cost and energy impacts therefore are given in ranges whose extremes result from assuming use of all flares or use of all boilers for control of nonhalogenated streams. Some processes would employ product recovery equipment to achieve a TRE index value higher than the exemption cutoff rather than control emissions by use of a combustion device, and, in fact, the proposed standards are structured in a way which encourages this. Such equipment generally has lower associated costs, energy use, and emission reduction than combustion devices. Therefore, the environmental, energy, and economic impact ranges calculated for the proposed standards are somewhat overstated. However, the degree of overstatement of the impacts cannot be quantified.

Under the proposed standards, approximately 40 percent of all new, modified, or reconstructed distillation facilities with VOC emissions would be under the TRE cutoff, i.e., would be required to control emissions through combustion. If all of these facilities used a combustion device to meet the standards, the projected 1987 national VOC emissions from new distillation operations would be reduced by an estimated 43,900 megagrams per year (Mg/yr). This national VOC reduction would be approximately 86 percent of the 51,000 Mg/yr level that would be expected if no standards were promulgated. Methane and ethane are not included in these VOC reduction projections due to their negligible photochemical reactivity.

Any increase in emissions of other air pollutants as a result of controlling VOC emissions would be negligible. There would be no direct solid waste impacts under the proposed standards; and impacts on noise, space requirements, and availability of resources would be negligible.

A negligible increase in total plant wastewater is projected under the proposed standards. There is no organic wastewater effluent associated with flares, boilers, process heaters, or incinerators when combusting nonhalogenated organic compounds. The total wastewater load at a facility combusting halogenated organics, however, could increase as a result of scrubbing and neutralizing the acidic combustion gases. The exact amount of additional wastewater generated is difficult to estimate due to the diversity of the process units industry. The amount is sufficiently small that it would not affect the wastewater treatment or sewer capacity at the affected plant sites.

The fifty year energy requirements due to VOC control under the proposed standards would range from a fuel savings of 3.0 billion megajoules per year (1,710 bbl oil/day) to a fuel usage of 1.2 billion megajoules per year (330 bbl oil/day) depending upon whether flares or boilers (heaters) are selected by owners as te means to achieve compliance for nonhalogenated streams. The projected national and individual plant energy impacts are considered reasonable.

The fifth year cost impacts of the proposed standards also would be reasonable. The 1987 national annualized cost for VOC control would range from a savings of $8.4 million to a cost of $9.6 million, again depending upon the choice of combustion devices. The cumulative national capital cost for VOC control in the fifth year would be $14.9 to $16.5 million.

An economic analysis indicated that the costs of VOC control due to the proposed standards would result in little or no effect on the price of chemicals affected by the standards. The analysis, which was based on assumptions that tend to give maximum price increases (i.e., all vents are controlled with incinerators), showed that no chemical considered under these standards would have a price increase of 5 percent or greater based on projected 1987 prices as a result of the standards. Most of the 219 chemicals (86 percent) would have a maximum price increase of 2 percent and 95 percent would have a maximum price increase 3 percent. Analysis of individual chemicals indicated that price increases would range from $0.00/kg to $0.014/kg with a median price increase of $0.01/kg. As a result, the production, employment, and trade impacts associated with the proposed standards are negligible. Forthermore, small businesses would not face significant impacts.

Standards of performance have other benefits in addition to achieving reductions in emissions beyound those required by a typical State implementation plan (SIP). They provide documentation which reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies, development of associated costs, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. The costs are provided for economic analysis that reveals the affordability of controls in a study of the economic impact of controls on an industry.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government, and the public affected by that industry's emissions. The resultant regulation represents a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level allows that for a dynamic economy and a healthful environment.

Moreover, this industry is rapidly evolving and growing, and the emissions include a wide range of organic compounds, some of which are currently being studied for potential toxicity. The continuing evolution of this industry, as well as the difficulties and time required to determine adverse health effects associated with these chemical emissions, will continue to make

chemical-by-chemical control of toxic emissions a costly and uncertain process. Accordingly, an effective NSPS offers benefits beyond those associated with the reduction of VOC as oxidant precursors.

Selection of Source and Pollutant

The EPA priority list, 40 CFR 60.16 (44 FR 49222, August 21, 1979), ranks major source categories for which NSPS are to be promulgated. This list implements the Clean Air Act and reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution. The synthetic organic chemical manufacturing industry was ranked highest priority for NSPS development on the final priority list of 59 major source categories. Organic chemical plants are a major source of VOC emissions which contribute to ozone formation.

VOC is emitted from four major subcategories within the industry: process vents, fugitive, storage, and secondary emission sources. Standards already have been proposed for fugitive sources and are being developed for storage sources.

Process vent emissions of VOC are estimated to be 50 to 55 percent of the total VOC emissions from SOCMI. process vent emissions are emissions from any of the process or associated product recovery vents involved in organic chemical manufacturing. Distillation operations, the largest process vent category, are important contributors to the process vent emissions total.

Distillation is a unit operation common to the production of many synthetic organic chemicals. In the processing steps involved in the production of a particular chemical, it is often necessary to separate a process stream into its components, and distillation is the predominant separation method used. To be precise, distillation is an operation separating one or more feed stream(s) into two or more product streams, each product stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid-and vapor-phase as they approach equilibrium within the distillation unit. The more volatile component(s) concentrate in the vapor-phase while the less volatile component(s) concentrate in the liquid-phase. Both the vapor- and liquid-phase originate predominately by vaporization and condensation of the feed stream.

VOC emissions from distillation result from the venting of VOC-containing noncondensibles to the atmosphere. Distillation is involved in the production of hundreds or organic chemicals, and existing distillation vent emissions are estimated to be 140 Gg/yr.

Vent stream combustion is a VOC control technology applicable to all organic chemical manufacturing distillation operations. Because control technology is available to reduce emissions from distillation operations at reasonable cost, the Administrator is proposing standards of performance that are intended to reduce VOC emissions from distillation operations.

In developing standards under Section 111 of the Clean Air Act, environmental, cost, economic, small business, and other impacts are examined. It would be very resource intensive and time consuming to analyze all these impacts for each of the many chemicals produced. The result of following such an approach would be to delay promulgating standards significantly, resulting in turn in a significant loss in emission reduction. Therefore, EPA has decided to limit the scope of these standards initially to a relatively small number of high production chemicals. The Agency performed an analysis to determine the probable effects of such a limitation. Two alternatives were considered for limiting the scope to high production volume synthetic organic chemicals. The first involved limiting the scope of the standards to about 870 organic chemicals produced in quantities greater than 4,500 Mg/yr (10 million lb/yr). This would cover roughly 97 percent of organic chemical production but would result in an unworkable number of chemicals for the impact analyses. The second alternative would limit the scope of the standards to 219 organic chemicals produced in quantities greater than 45,000 Mg/yr (100 million lb/yr). The chemicals covered under this second alternative would account for more than 92 percent of total U.S. production of organic chemicals. Therefore, the Administrator concluded that limiting the scope of the standards to the 219 chemicals produced in quantities greater than 45,000 Mg/yr would provide a workable scope while covering the great majority of organic chemical production. A list of the affected chemicals is included in the regulation. The overall growth for production of these chemicals is approximately 3-4 percent. On this basis, approximately 2,060 new distillation units involved in producing the chemicals are projected to be built between 1982 and 1987.

A small fraction of organic chemicals are extracted from natural sources or totally produced by biological synthesis. Since the impacts on these chemicals have not been investigated, they are not included in the scope of these standards. Also not included in the scope of the standards is the production of beverage alcohol for human consumption. These sources are not included on the priority list of sources for which standards are to be promulgated and, as indicated in the notice announcing EPA's promulgation of the NSPS Priority List (44 FR 49222), are not within the scope of the SOCMI source category. However, in accordance with EPA's description of the SOCMI source category for the purposes of the Priority List, *id.*, any process units in beer and whiskey plants that are used to manufacture non-beverage fermented products and that produce chemicals on the list of 219 chemicals are subject to the standards. Excluded from the list of 219 chemicals are polymers and resins, which are included in a separate NSPS, and coal tar distillation, which is also being investigated separately.

Most organic chemicals are manufactured in a chain of chemical processes which is based upon about 15 feedstock chemicals. The feedstock chemicals, for the most part, are derived from crude oil. The 219 chemicals can be produced either at petroleum refineries or at chemical plants, and the demarcation between an organic chemical plant and a petroleum refinery is not well defined. The distillation technology and applicable control systems are the same regardless of whether the chemical is produced at a refinery or a chemical plant. For these reasons, the proposed standards apply to distillation units involved in the production of the 219 chemicals, regardless of location.

Small research and development or laboratory scale facilities are generally intermittent operations. Moreover, control techniques that are appropriate for distillation facilities in general would not be necessarily appropriate for such facilities. For these reasons, EPA has decided to defer consideration of such facilities. To exclude them from consideration in these standards, the proposed standards contain a plant capacity cutoff which excludes all distillation operations involved in the production of a particular chemical in quantities less than 1 gigagram/year (2.2 million pounds/year).

Distillation units operating as part of a process unit which uses, contains, or produces no VOC (i.e., photochemically reactive compounds) are not covered by

the standards. An organic compound is considered to be a VOC unless the Administrator has specifically determined that it is not. To date, the Administrator has determined that the following compounds are not VOC: methane; ethane; 1,1,1-trichloroethane; methylene chloride; trichlorofluoromethane; dichlorodifluoromethane; chlorofluoromethane; trifluoromethane; trichlorotrifluoroethane; dichlorotetrafluoroethane; and chloropentafluoroethane. Once it is determined that a facility is covered by the standards because it is part of a process unit which uses, contains, or produces VOC, the emission limits are expressed in terms of total organic compounds (minus methane and ethane) rather than VOC. This is a reflection of the technology, data, and test method on which the standards are based. This is discussed in greater detail in a later section of this preamble entitled *Compounds Used in Determining Compliance.*

In addition to VOC emissions, other pollutants emitted from distillation sources include carbon monoxide (CO), nitrogen oxides (NO_x), and sulfur oxides (SO_x). The other pollutants are emitted in much lower quantities (VOC is by far the primary pollutant emitted from distillation operations). Due to the size of this source category, acquiring the information to determine the applicable technology for the other smaller pollutants at the same time the Agency analyzes the pollutant covered by these standards would have been an unmanageable task. The Agency will examine these other pollutants independently.

Selection of Regulatory Approach and Affected Facility

Two general regulatory approaches were considered for use in developing standards for the organic chemical industry. The first approach would involve establishing standards for each specific chemical manufacturing process. It would be nearly impossible to develop standards using this approach for all the chemical processes using distillation due to the large number of chemicals that involve distillation operations in their production. The second approach involves the development of standards on the basis of similar types of emission sources and applicable emission control techniques. This second approach would allow resource efficient regulatory development because a large number of specific chemical processes can be covered by only one regulation. Using this approach would mean that an NSPS for SOCMI distillation covering most units could be developed in a relatively short period of time, compared to the chemical-by-chemical approach. In addition, because of the similarity of processes or operations regulated by a particular standard and the similarity of applicable controls, the energy and cost impacts can be addressed as required by the Clean Air Act.

The types of emission sources and the applicable control techniques were reviewed to determine whether an approach covering the distillation unit operation is feasible for an organic chemical distillation NSPS.

Distillation units involved in the production of the 219 chemicals included within the scope of the standards can be classified according to operating pressure (vacuum versus nonvacuum), mode of operation (batch versus continuous), and number of stages (flash—single stage versus fractionating—multistage). Despite the variety of distillation types, the VOC emissions from all distillation operations are caused by the venting of VOC-containing noncondensibles to the atmosphere. The VOC content of these vent streams varies from a negligible percentage to nearly 100 percent. The flowrates of distillation vent streams are low, typically less than 3 m^3/min (100 scfm) and almost always less than 14 m^3/min (500 scfm).

Technology exists to control VOC emissions from all organic chemical distillation units. VOC can be controlled for all distillation units by combustion of the vent stream. Because flowrates for distillation units are similar, the design characteristics and therefore costs for combustion devices would be similar among distillation facilities and different from a typical design for control of other organic chemical sources such as air oxidation or oxygen unit processes. Therefore, it was concluded that a single regulation could be proposed for controlling VOC emissions from all organic chemical distillation facilities.

The choice of the affected facility for these standards is based on the Agency's interpretation of Section 111 of the Clean Air Act and on the judicial construction of its meaning [ASARCO, Inc. v. EPA, 578 F.2d 319 (D.C. Cir. 1978)]. Under Section 111, the standards of performance for new stationary sources, must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment which emit air pollutants, and which may be viewed as "source." EPA therefore uses the term "affected facility" to designate the equipment within a particular kind of plant which is chosen as the "source" covered by a given standard.

In designating the affected facility, EPA must decide which piece or group of equipment is the appropriate unit (the source) for separate emission standards in the particular industrial context involved. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower designation results in bringing replacement equipment under standards of performance sooner. If, for example, an entire plant is designated as the affected facility, no part of the plant would be covered by the standards unless the replacement causes the plant as a whole to be "modified" or "reconstructed." The plant as a whole could be considered modified only if the replacement results in an increase in the aggregate emissions from the entire plant. The Agency would consider the plant as a whole to have been reconstructed only if the cost of the replacement exceeds 50 percent of the cost of an entire plant. If, on the other hand, each piece of equipment were designated as the affected facility, then as each piece would be replaced, the replacement piece would be a new source subject to the standards. Since the purpose of Section 111 is to minimize emissions by application of the best demonstrated control technology at all new and modified sources (considering cost, other health and environmental effects, and energy requirements), there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes either that: (a) A broader designation of the affected facility would result in greater emissions reduction than would a narrow designation; or (b) the other relevant statutory factors (technical fesibility, cost, energy, and other enviromental impacts) point to a broader designation.

Organic chemical plants employ distillation as the most common unit operation for separation of mixtures of chemicals, and the vast majority of organic chemical plants contain distillation units. Large production facilities producing several organic chemicals can contain 30 to 40 distillation units.

Separation is achieved in a distillation unit through liquid-vapor contact, which drives part of the mixture to the vapor phase, and the rest to the liquid-phase. Virtually all distillation units have a condenser to recover, as liquid, the vapor-phase outlet of the unit. Because this primary condenser cannot always completely recover the entire offgas stream, particularly inert gases with low boiling points, there is usually a portion of the offgas stream which must be vented to the atmosphere or recycled. The vent stream from the primary condenser can carry with it some organics which, if they are released to the atmosphere, results in VOC emissions. Often, a secondary recovery device such as an adsorber, scrubber, or second condenser is used to recover some of the remaining organics.

A distillation column generally does not release emissions directly to the atmosphere since all offgas from it is vented to recovery device(s). On the other hand, although VOC emissions are usually vented from a product recovery unit, the emissions would not occur if not for the distillation column. Since the column and the recovery system operating in conjunction determine the emissions from distillation operations, it is reasonable to consider the distillation column and the assoiciated recovery system as one affected facility.

Two ways in which an affected facility could be defined are: (1) As a single distillation unit with all associated product recovery devices (under this option, two distillation units ducted to a common secondary recovery device would constitute two affected facilities); (2) as the product recovery train with all associated distillation units (under this second option, two distillation units ducted to a common secondary recovery device would constitute one affected facility); and (3) all the distillation units and product recovery trains in the plant. The first option is the narrowest designation, and it would ensure that the standard would apply to all new distillation units, including those added to existing recovery trains. Unlike some organic chemical plant gas streams, it would sometimes be feasible to add a distillation unit to an existing recovery device due to the low flowrates of most units. Under the second option, the NSPS would apply to new distillation units added to an existing recovery train only if net emissions from the entire set of units increased as a result, causing a modification and bringing the whole set under the standards. Therefore, it would be possible for a new unit to be installed at a plant and not be affected by the NSPS.

Because the first option would appear to result in no adverse impacts necessitating the selection of any broader designation (such as the second option), the Administrator designated each single distillation unit as a separate affected facility. A distillation unit is defined as the distillation column together with auxiliary equipment (such as the primary condenser and reboiler), internals (such as trays and packing), and all associated product recovery equipment. EPA specifically solicits comments concerning this designation of affected facility.

Selection of Basis for the Standards

Selection of Control Techniques Upon Which the Proposed Standards Are Based. The Clean Air Act requires that standards of performance be based on the best system of continous emission reduction, considering costs, energy usage an nonair health, and environmental impacts ("best demonstrated technology" or BDT). As discussed in the background information document, one or more combustion techniques (either a boiler, process heater, incinerator, or flare) are applicable to any distillation vent stream and can achieve 98 percent control or 20 ppmv in the outlet gas. However, combustion devices are the only types of control devices which are applicable to all distillation operations. Product recovery devices are much more chemical specific and therefore were not considered as the basis for the standards.

Four combustion devices (incinerators, boilers, process heaters, flares) were found to be applicable to any nonhalogenated vent stream. For incinerators, operating conditions can be identified which will ensure 98 percent destruction, or 20 ppmv total organics (minus methane and ethane) in the outlet gas for low VOC concentration vent streams (below about 2,000 ppmv). Boilers and process heaters were found to be capable of achieving 98 percent destruction if the organic-laden stream is used as a fuel and is put into the flame zone. And in recent tests, smokeless steam-assisted, air-assisted and nonassisted flares were found to be as efficient as these other combustion devices in destroying VOC over a broad range of operating conditions if the heat content of the flared gas was maintained above 7.45 MJ/scm (200 Btu/scf) or 11.2 MJ/scm (300 Btu/scf), depending upon flare design, and the exit velocity of the flare is less than 18m/sec. In terms of cost, boilers and process heaters are the least expensive combustion devices, while incinerators are generally the most costly to operate. Flares can control most nonhalogenated VOC streams for less cost than incinerators. Although all these devices are also capable of efficient destruction of haloganated VOC, incinerators were found to be the most widely applicable devices to these streams, due primarily to the corrosion-related problems associated with the other three devices.

In sum, 98 percent control or reduction to 20 ppmv is achievable for both halogenated and nonhalogenated distillation vent streams using one of the four devices discussed above. Thus, those four devices are candidates for BDT for the emission source category of organic chemical distillation operations as a whole.

Section 111 of the Clean Air Act, however, permits the Administrator to distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing new source performance standards. Since vent stream characteristics within this category vary widely, it is to be expected that the cost per unit of emission reduction among streams will vary also. It is also possible that adverse environmental impacts of using a combustion device to control VOC emissions could vary from vent stream to vent stream to such an extent that for some vent streams, BDT may not be 98 percent control (or 20 ppmv) by combustion. The Administrator, therefore, has assessed adverse environmental impacts, economic impacts, and the cost per unit emission reduction for distillation vent streams included in the scope of these standards to determine if, due to adverse impacts associated with the use of the most applicable combustion devices, BDT for certain classes, types, or sizes of distillation units might be no additional control. The following sections discuss these additional impacts.

Consideration of Environmental Impacts. The potential adverse environmental impacts which could result from distillation standards were assessed. The generation of NO_x by the combustion process could have a negative impact on ambient air quality by contributing to ozone formation. The principal factors affecting the rate of NO_x formation during combustion are the amount of excess air available, the peak temperature, and the rate of cooling of the combustion products. Relatively low combustion temperatures of approximately 870°C (1,600°F) are associated with control of VOC using thermal incinerators and residence

times are generally too short to be conducive to NO_x formation. Therefore, the rate of NO_x formation is expected to be low if incinerators are used. NO_x emission test data for incinerators are in the background information document.

Only limited data are available for NO_x emissions from flares. In a recent study of stream-assisted and air-assisted flares, the highest estimated NO_x emissions were well below the reported NO_x emissions tabulated for industrial boilers and process heaters firing gas or oil. Furthermore, any increase in NO_x emissions resulting from the addition of a distillation vent stream is expected to be relatively small.

Introduction of a distillation vent stream as a supplement to the fuel and combustion air normally introduced into a boiler or process heater could, in some cases, result in increases in NO_x emissions. The combustion temperatures in these devices are well in excess of 2,000°F and are therefore conducive to NO_x formation, and some distillation vents being controlled would contain nitrogenous organic compounds or nitrogen from air in the vent stream. However, distillation vent streams would represent only a small part of the total input to the boiler or heater. Also, in many cases introduction of the distillation vent stream would result in lowered fuel requirements and could result in lower NO_x emissions if the nitrogen from nitrogenous organic compounds is less than fuel bound nitrogen of the fuel being replaced. In addition, measures to minimize NO_x formation could be implemented due to NO_x standards under development for industrial boilers. Any increase (or decrease) in NO_x emissions due to introduction of the distillation vent stream would be slight.

In addition to generation of NO_x, the control of VOC emissions from halogenated vent streams by thermal incinerators may result in the release of chlorinated combustion products to the environment. However, flue gas quenching and scrubbing could be used to remove these compounds from the incinerator outlet stream. Current industry practice among distillation facilities with chlorinated vent streams which employ combustion devices is to employ flue gas scrubbing to reduce plant maintenance costs by preventing corrosion of equipment. The capital and operating costs associated with flue gas quenching and scrubbing were taken into account in projecting the cost impacts.

Control of VOC emissions using combustion devices would not result in any significant increase in waste water discharge by distillation units. No water effluents are generated by the combustion devices themselves.

Use of an incinerator/scrubber system for control of VOC emissions from halogenated vent streams would result in increased water consumption. The increase in total plant waste water would be relatively small and would not affect plant waste treatment capacity or sewer capacity. However, if the scrubbed hydrochloric acid is not recovered, it may be necessary to adjust the pH of the scrubber effluent by treatment with caustic (NaOH) before it is released into the plant waste water system. The salt (NaCl) formed by the caustic treatment must be purged from the system and properly disposed of. Acceptable methods of disposal include discharge to a waste water treatment system or deep well disposal. The increased water consumption and caustic (NaOH) costs were included in the projected operating costs for those distillation units in the profile representing halogenated vent streams. Costs associated with disposal of NaCl were not believed to be significant and therefore were not included in the projected impacts.

For each of the 219 chemicals under consideration, the adverse environmental impacts of VOC control using combustion devices would not be significant. Therefore, these impacts do not provide a basis for exempting any of the chemicals from the proposed standard or affecting the selection of BDT.

Consideration of Economic Impacts. An economic analysis was performed to determine if the price of any of the 219 affected chemicals would be adversely affected by distillation standards. Assumptions which tend to maximize the projected price increase were used in the analysis. For example, it was assumed that the most expensive control technology, incinerators, would be used in each case.

Some of the 219 chemicals are feedstock chemicals produced directly from petroleum, while others are intermediates or end-use chemicals produced from the feedstock chemicals. The price increases caused by the use of a combustion device for a particular chemical were assumed to be reflected also in the price of all chemicals produced from that chemical. The projected price increase was calculated assuming that all control costs would be reflected as price increases, and that none would be absorbed. The price increase was calculated by dividing the estimated annualized control costs by the annual production total of a facility.

It was found that 87 percent of the 219 chemicals would have a maximum price increase of 2 percent and 96 percent of the chemicals would have a price increase of 3 percent or less. None would have a price increase greater than 5 percent. Examining the price impacts on chemical groups, the chemical price increases associated with the controls for distillation operations range from $0.00/kg to $0.14/kg, with a median price increase of $0.01/kg for the chemical groups considered. As a result, the production, employment, and trade impacts of combustion control for VOC emissions from distillation operations is negligible.

Consideration of Cost and Energy Impacts. the cost of VOC control by combustion (and the energy usage, which is essentially a portion of the cost) can be calculated for any distillation unit based upon a few vent stream parameters. These parameters are the flowrate, the heating value, and the elemental composition of the vent stream.

The future distribution of the key vent stream characteristics will determine the cost and energy impacts that would result from a distillation standard. A large data base describing the vent stream characteristics at existing distillation units is available. The distribution of vent stream characteristics in the data base is felt to be a good approximation of the future distribution. The data base therefore was used as a national statistical profile for purposes of determining the relationship of VOC control costs versus national percentage reduction in emissions from distillation operations. The development of the profile and its use for determining cost and energy impacts are described in the background information document.

In summary, there are 195 units in the national statistical profile. Growth rate projections indicate that 2,060 new distillation units will be constructed in the next 5 years. Of these, only 1,200 units will be affected by the standards because the remainder have recycled vent streams or negligible flowrates. The 195 units in the statistical profile were used to represent distillation vent characteristics of the projected new 1,200 units, i.e., regulatory analysis results for the 195 units were scaled up to represent the 1,200 units.

If no NSPS were promulgated, VOC emissions of 51,000 Mg/year would be expected from SOCMI distillation facilities, after considering the effects of State regulations and other factors, including energy conservation and product recovery. This level of emissions was established as the baseline for analysis of the standards.

Development of a Relationship Between National Costs Versus Percent VOC Reduction. The cost and energy impacts analysis was structured to project the effects of controlling a series of progressively larger portions of distillation units (and, therefore, the effects of achieving progressively larger reductions in VOC emissions nationwide). (A maximum control level of 98 percent would be achieved if all 1,200 expected VOC-emitting distillation units ducted their distillation vent streams to a combustion device.) To identify the largest portion of distillation units for which costs are reasonable, the Agency ranked the units in the statistical profile in order of increasing control cost per megagram VOC destroyed and studied the impacts of controlling different portions of those units. At one extreme of this series was the portion containing only the units with the very lowest projected annual cost of control per unit VOC reduced, for which the costs of applying the most effective demonstrated technology are clearly reasonable. At the other extreme was the set of all distillation units, including those with the highest projected cost per unit of control, for which the costs would likely be considered unreasonable.

There were several options for the cost per megagram ranking. One option would be to rank units in the profile individually according to costs per megagram. However, there are many plants in the profile which have more than one distillation unit. For such plants the cost per megagram of controlling multiple units would be less than the cost per megagram of controlling each unit individually, since each vent stream could be ducted to a common device. Therefore, consideration of combinations of units in the ranking would alter the decision of which particular units to control first. For example, two identical distillation units located at different plants would have identical individual costs per megagram. If one of these units was the only distillation unit at a plant while the other was at a plant with several units, however, the latter unit could be controlled at a lower cost since several units could be controlled by the same control device. A ranking of all possible combinations of units in the profile would more accurately describe the order in which units should be controlled and would result in the least national cost for a given percent reduction in VOC emissions by more precisely targeting the units to control. However, it would be difficult to design a regulation which could identify the affected facilities that should be required to install combustion controls based on consideration of all possible control combinations, and such a regulation could be unreasonable time consuming and burdensome to the industry. An analysis of the profile was performed, therefore, to determine whether a ranking of units individually would, in practice, result in significantly higher control costs than either a ranking of all combinations, or two other ranking schemes which would consider some, but not all combinations. Four different rankings were made, one for each of the four ranking schemes. When the four ranking schemes were compared, it was determined that the order in which units would be controlled for each ranking would be very similar. As a result, control cost differences among the options would be slight. Therefore, since essentially the same units would be required to control, whether ranked as individual units or ranked taking into account combinations, it was decided to use the individual units ranking scheme which is the simplest.

Another consideration was whether to rank the individual distillation units based upon flare costs for nonhalogenated streams and incinerator costs for halogenated streams, or to rank the units based upon boiler costs for nonhalogenated streams and incinerator costs for halogenated streams. The order in which units would be ranked under the two schemes would not necessarily be identical since the relative importance of certain gas stream characteristics, in determining control costs, can vary for boilers and flares. Neither alternative is ideal—boilers would probably be used in many cases due to their economic advantage, but it is not possible to determine precisely when boilers would and would not be used. Both rankings were developed and considered. The flare/incinerator ranking resulted in higher annualized costs than the boiler/incinerator ranking, due primarily to the energy credits associated with burning VOC in a boiler. As described in the background information document, there may also be safety and reliability problems associated with using boilers to destroy VOC that are not encountered with the use of flares. Therefore, since flares are universally applicable for nonhalogenated streams and since flare costs are more conservative (higher) than boiler costs, the flare/incinerator ranking was selected as the primary basis of estimating the national impacts.

The ranking was used to identify the order in which units in the profile would be controlled. From the ranking, the units with individual costs per megagram below any given cost per megagram level could be identified. The relationship between the control cost per unit VOC destroyed ($/Mg ranking) and national percent reduction in VOC emission is shown in Table 1.

TABLE 1.—ESTIMATED IMPACTS OF PROPOSED STANDARDS

$/Mg Cutoff	Number of Units Controlled [a]	VOC Emissions Reduction [b]		Total Annualized Cost [c] 10⁶ $	Additional Energy Requirement 10⁶ Million Btu/yr
		1,000 Mg/yr	Percent		
0	0	0	0	0	0
100	31	26.6	52	1.07	7.2
300	63	30.7	60	1.55	8.4
600	118	33.8	66	2.60	11.3
1,000	197	40.2	79	6.77	43.7
1,400	284	42.2	83	7.88	50.5
1,900	342	43.9	86	9.59	54.5
2,900	348	44.0	86	9.70	54.7
3,500	390	44.4	87	10.0	55.7
9,000	466	44.9	88	12.5	64.9
20,000	545	45.2	89	14.4	73.9
75,000	689	45.5	89	19.2	95.4
No Cutoff	888	45.5	89	21.3	110.0

[a] 888 units potentially controlled by NSPS = 312 units controlled without NSPS (due to State regulations or for resource recovery) + 860 units with recycled vent streams or negligible flows (insignificant emissions) + 2,000 units expected to be constructed within the next 5 years.

[b] Reductions are for a baseline emissions of 51,000 Mg/yr.

[c] Pre-tax interest rate of 10%/year was assumed.

Note: *This table overstates both costs and emission reductions for a given cutoff.* Costs presented in this table assume flares are used for required control, but under certain circumstances boilers or process heaters will be less costly. Furthermore, sources close to the cutoff may install product recovery devices rather than combustion controls, costing less and producing less of a reduction in emissions. The degree of overstatement cannot be quantified.

The ranking was used solely for purposes of identifying the order in which a statistical sample of new distillation units would be controlled by combustion as the number of affected facilities requiring control increased. As more and more individual units required control, two important factors in determining regulatory impact became apparent. First, there were individual units located at the same plant that were requiring control. An owner or operator of a plant requiring control of several distillation units would in all probability duct the vent streams to the same control device due the economic benefit. Even though the individual unit costs of control are appropriate for ranking the columns, the simple cumulative costs of individual column control would not accurately describe the actual or expected costs and costs per unit VOC removed that such an owner or operator would face. Therefore, the calculation of the total cost and energy impacts of the standards took into account the combining of such units. Secondly, there were units which were required to control due to the standards which were located at plants that would have (as indicated by the baseline control profile) a combustion device for other units at the plant even if no standards were promulgated. (This is to be expected, since some plants have units with very high and other units with very low concentrations of organics in the vent stream.) The distillation units requiring control solely based on the standards would almost certainly be ducted to the same combustion device as the units controlled in the baseline. This was taken into account by calculating (1) the costs of controls being applied in the baseline and (2) the impacts of controlling the additional units in combination with those already controlled. The difference between (1) and (2) is the expected costs due to the NSPS in these cases.

Table 1 was obtained from the ranking by calculating expected costs per megagram based upon flare costs for all nonhalogenated streams. A similar table could be presented based upon boiler costs for all nonhalogenated streams. Thus, a range of impacts would result from controlling a given percentage of affected facilities. The exact impacts woud depend on the relative fraction of affected facilities that chose boilers over flares.

Selection of Best Demonstrated Technology. As explained previously, controlling all future distillation units would not result in unreasonable non-air environmental impacts or cause any of the chemicals to experience an adverse price increase. Therefore, the Administrator analyzed the cost per megagram emission reduction and energy impacts before determining which units should be controlled. This analysis assures that the cost of units being controlled is reasonable, not only in terms of economic impacts, but also in terms of the emission reductions that would result. In this analysis, the cost date in Table 1 were first considered. The energy impact shown in Table 1 indicate that there would be no unreasonable adverse energy impacts (less than 0.06 percent increase in nationwide energy consumption for distillation operations), even if all units were controlled by combustion devices.

The Administrator concluded that the cost of requiring control of any column above the $1,900/Mg cutoff shown in Table 1 is unreasonably high compared to the emission reduction achieved. In the past, the maximum estimated cost per megagram of pollutant material removed (VOC, particulate matter, SO_2) has ranged from somwhat less than $1000 to more than $2000. This package has a maximum estimated cost per megagram of $1900. In prior source categories for which NSPS have been developed, VOC maximum estimated control costs have generally not exceeded $1000 per megagram. In this case, because of the presence of potentially toxic constituents in the discharge streams and the "worst case" character of the cost calculations, EPA believes the proposed standards are reasonable.

The maximum estimated cost in this package will not be viewed as a precedent for future actions. Instead, in the future, EPA will continue to evaluate each package on an individual basis.

In selecting the $1,900/Mg cutoff, the Agency noted that the average cost effectiveness for facilities below the cutoff is $218/Mg. The Agency also considered that the organic chemical manufacturing industry is the largest stationary emission source of VOC and distillation operations are a major VOC emitting segment within the industry. Also, as detailed in the section entitled TRE Index, the costs shown in Table 1 do not take into account the ability of facilities to control emissions through adding product recovery in certain cases, thereby avoiding combustion control device costs. Due to this ability, it is unlikely that any distillation column would have to spend the maximum cutoff cost per megagram of $1,900/Mg. More important, as stated previously, the impacts associated with the $1,900/Mg were developed based on the assumption that flares would be used to control VOC on all nonhalogenated streams. This assumption leads to an overstatement of the adverse impacts of the standards (cost, energy, etc.). This occurs because in many cases boilers (and heaters) rather than flares will be used to control VOC; and boilers (and heaters) are less costly to operate due primarily to energy savings. The impacts associated with the $1,900/Mg cutoff are actually somewhere below the impacts shown in Table 1 depending on the number of boilers (and heaters) used instead of flares.

The BDT selected allows flexibility in implementing the standards. For sources below the TRE index cutoff where the cost of combustion control is considered reasonable, BDT is combustion capable of achieving a reduction of 98 percent, or to 20 ppmv total organics (minus methane and ethane) (whichever is less stringent). Control is achievable through the use of combustion devices such as incinerators, boilers, process heaters, and flares; incinerators may be the only applicable combustion device for use on streams containing halogenated VOC. Above the TRE index cutoff, BDT is no combustion control.

Selection of Format of the Standard and Emission Limits

Combustion Devices. Several formats could be used to implement the proposed standards. Section 111 of the Clean Air Act requires that standards of performance be prescribed unless, in the judgment of the Administrator, it is not feasible to prescribe or enforce such standards. In this case, Section 111 allows the Administrator to prescribe design, equipment, work practice or operational standards, or combinations thereof. The term "not feasible" is applicable if the emissions cannot be captured and vented through a vent or stack designed for that purpose, or if the application of a measurement methodology is not practicable because of technological or economic limitations. Because emissions from distillation vents and emissions from incinerators

and boilers (and process heaters) can be measured, an emission limitation (performance) standard would be appropriate for these two combustion devices. Because of the variety in offgas flowrates and organic contents for the many chemical reaction processes and facilities in the distillation source category, mass emission rates from sources using 98 percent efficient control devices would vary considerably. Consequently, a mass emission limit based on an average source would require more than 98 percent control selected as best demonstrated technology (BDT) at some facilities and less at others. Therefore, a mass emission standard was considered inappropriate, because it would not require best demonstrated technology (BDT) at each source.

Distillation process vent streams have as much variation in volume percent organics concentration as in mass emission rates. Any standard based solely on a concentration limit would require more than BDT at some facilities and less than BDT at others. Therefore, a standard based solely upon concentration was considered inappropriate. However, a concentration limit might be used in combination with another type of emission limit if the applicability of the concentration limit were restricted to facilities with a limited range of offgas organics content.

A weight percent reduction standard would be feasible for incinerators, boilers, and process heaters because the control device inlet and outlet emission rates can be measured. A weight percent reduction standard would result in the application of BDT at all sources. Furthermore, a given set of incinerator or boiler (or process heater) operating conditions tends to result in a given weight percent organics reduction, rather than in an absolute outlet organics concentration or emission rate.

All new incinerators can achieve at least a 98 weight percent reduction in total organics (minus methane and ethane), provided that the total organic concentration (minus methane and ethane) of the process vent stream is greater than approximately 2,000 ppmv (volume, by compound). (For a distillation vent stream with a concentration of 2,000 ppmv, the incinerator combustion air introduces a dilution factor of about 2, so that the actual incinerator inlet concentration is about 1,000 ppmv.) The maximum achievable destruction efficiency of a thermal incinerator is dependent upon the inlet stream composition. Kinetic calculations describing the combustion reaction mechanisms point to much slower reaction rates at very low organic concentrations. Because of much slower combustion reaction rates at lower inlet concentrations, maximum achievable destruction efficiency decreases as inlet concentration decreases. A weight percentage reduction standard, based on the mass rate of organics exiting the combustion device versus the mass rate of organics entering the combustion device would be appropriate for vent streams with concentrations above approximately 2,000 ppmv. Available data show that 20 ppmv is the lowest outlet concentration of total organic compounds (minus methane and ethane) achievable by combustion of inlet streams below approximately 2,000 ppmv VOC. The Agency has selected 20 ppmv as the limit that allows for the drop in achievable destruction efficiency with decreasing inlet organics concentration. Therefore, EPA concluded that the format of the proposed standards for distillation process vents using an incinerator, boiler, or process heater should include a combination of weight percent reduction standard and a volume concentration standard. The proposed emission limits would be a 98 percent reduction in total organic compounds (minus methane and ethane) or reduction to 20 ppmv total organic compounds (minus methane and ethane) (volume, by compound), whichever would be less stringent. The concentration limit of 20 ppmv would be based on a vent stream oxygen concentration, at the control level, of 3 percent by volume.

Boilers and process heaters can achieve a 98 weight percent reduction, provided that the waste stream is introduced into the flame zone where temperatures are highest. Unlike incinerators, in which furnace temperatures are fairly constant, furnace temperatures in heat generating units are highest in the flame zone and a temperature gradient is experienced between the flame zone and the walls. The combustion kinetics are much more rapid in the flame zone, due to the higher tempertures (2,800°F to 3,000°F). This results in very small residence time requirements (much less than furnace residence times). When burned as a fuel in the flame zone, the organic compounds to be destroyed are exposed to these higher temperatures. As a result of the more rapid combustion kinetics at these temperatures, high destruction efficiencies comparable to those achieved by incinerators are attainable. In tests of the combustion of organic compounds burned as fuels in boilers and process heaters, greater than 98 percent destruction efficiencies were demonstrated. Therefore, a distillation vent stream, when combusted in a boiler or heater, must be introduced into the flame zone to ensure that it reaches sufficient combustion temperatures for destruction of the VOC. If the waste stream is not introduced into the flame zone, measuring 98 percent efficiency across the control device has no value (i.e., does not assure the distillation stream is being reduced by 98 percent) since distillation vent streams comprise generally a small portion of the total combustible stream to the heat generating unit. It is infeasible to "measure" whether the waste stream is introduced into the flame zone. Therefore, where a boiler or process heater is used as the control device, it is appropriate under the requirements of the Clean Air Act to have a combination format of performance standard and an operational standard. The proposed emission limit therefore would require any owner or operator using a boiler or process heater to introduce the distillation vent stream into the flame zone of the combustion device.

Unlike boilers, heaters, and incinerators in which combustion takes place in an enclosed chamber, flaring is an open combustion process. It is very difficult, therefore, to measure the emissions from a flare to determine its efficiency. It may be technologically possible to measure these emissions, but the costs involved due to the necessity of hooding the flare and other equipment needs would be economically impracticable. The Administrator, therefore, has determined that a standard of performance is not feasible for a flare.

As described in the background information document, test data show that some flares meeting certain conditions achieve 98 percent emission reduction. Consequently, the Agency concluded that the format for distillation vent streams using flares should be an equipment standard with the stated specifications. The proposed standards require, therefore, the use of a smokeless flare for those streams using a flare to seek to comply with the standards. Only flares that are steam-assisted, air-assisted, or nonassisted may be used. Furthermore, the net heating value of the flared gas must not be less than 11.2 MJ/scm (300 Btu/scf) for steam-assisted and air-assisted flares or less than 7.45 MJ/scm (200 Btu/scf) for a nonassisted flare. In addition, the exit velocity of the flare gas at the flare tip must not exceed 18 m/sec (60 ft/sec) for steam-assisted and nonassisted flares. Air-assisted flares

must also operate below a maximum exit velocity, which is dependent upon the net heating value of the flared stream. The maximum exit velocity is determined using the equation found in Section 60.664 of the regulation. These are the only conditions for which EPA has data supporting that flares achieve 98 percent emission reduction.

Another consideration in developing the equipment standard for streams using flares is the potential for process variations such as flow surges that can cause a flare to smoke for short periods of time until the flare can be adjusted. Five minutes is a reasonable period of time for alleviating the smoking condition by making the needed adjustment to the steam or air to the flare. Flow surges occur infrequently and generally do not occur more than once in a 2-hour period. Therefore, operational requirements have been included as part of the proposed standards. A smokeless flare is defined as a flare which produces visible emissions for no more than 5 minutes within any 2-hour period. This requirement is consistent with the flare requirement in Texas where many of these plants are located.

In summary, under the proposed standards, sources for which the costs of further control are reasonable would be subject to the following requirements: (1) a 98 percent weight reduction of the total organic compounds (minus methane and ethane) in the distillation vent stream or a reduction to 20 ppmv total organic compound (minus methane and ethane), whichever is less stringent, and if a boiler or process heater is used to seek to comply with the standards, the distillation vent stream must be introduced into the flame zone of the boiler or process heater; or (2) when a flare is used to seek to comply with the standards a smokeless flare is required and minimum heat content and exit velocity requirements for the flared gas must be met.

TRE Index. After selecting a cost cutoff above which further emission reduction is not required, it was necessary to develop a method for distinguishing those facilities below the cutoff from those facilities for which no VOC reduction beyond product recovery would be required. The Agency, therefore, has included an equation in the regulation to calculate an index which is used to determine if further control is required. This index is termed total resource effectiveness (TRE). The equation includes the parameters use in calculating costs considered in selecting the cutoff. These parameters are the offgas characteristics of flowrate, net heating value, concentration of total organic compounds (minus methane and ethane), and corrosion properties (presence of halogenated compounds). These parameters can be easily and objectively measured. The TRE value calculation allows the owner or operator of an affected facility to determine if that facility would be required to reduce VOC emissions further. The standardized calculation allows objective enforcement since all TRE values would be calculated based on the same parameters and calculated by the same method.

The TRE index of a process vent stream is calculated according to an equation given in Section 60.664(c)(7) of the proposed regulation. The set of coefficients used in the equation which apply to a process vent stream can be obtained from Table 1 of the regulation. These coefficients were derived directly from the cost and emission reduction equations associated with control of VOC emissions from distillation facilities by flares and incinerators. Table 1 of the regulation is divided into the three design categories for control equipment. Two of the design categories differ in the amount of supplemental fuel required for nonhalogenated vent streams using flares. The amount of supplemental fuel required depends upon the vent stream heating value. The third category involves incinerators with flue gas scrubbing for vent streams containing halogenated compounds.

The vent stream of an affected facility is considered "halogenated" under the proposed standard if it is determined to contain a concentration of halogenated compounds of 20 ppmv (by compound) or greater. This low 20 ppmv halogenation cutoff was chosen for the analysis to avoid control cost and TRE underestimates. Even small amounts of halogenated compounds may be corrosive and can necessitate incinerator temperatures greater than 870°C to achieve 98 percent control. Therefore, it was judged essential to set a low cutoff, so that the control cost and TRE would not be underestimated for any facility. It is not meant to imply that flares, boilers, and process heaters are prohibited from use on streams containing more than 20 ppmv halogenated compounds.

The TRE index cutoff value as calculated by the equation in § 60.664(c)(7) of the proposed regulation is 1.0. Affected distillation facilities with a TRE index of less than or equal to 1.0 would be required to reduce VOC emissions with a combustion device, while affected facilities with a TRE index above 1.0 would not be required to combust VOC emissions.

The use of a TRE index cutoff value will also encourage the use of product recovery techniques or process modification in an effort to raise the TRE index value to a point above the 1.0 cutoff. The parameters used to calculate the TRE index are measured at the outlet of the final piece of recovery equipment. Additional recovery can be used to change the values of the parameters (e.g., decrease the emission rate) and increase the TRE index value. The total cost to a facility of improved product recovery to exceed the TRE cutoff could be much lower than the total cost of a flare, boiler, or incinerator. It would, therefore, be economically advantageous for such a facility to choose to improve product recovery. However, the necessary reduction in emission rate to exceed the TRE index cutoff might also be less than the emission reduction associated with combustion. Therefore, the actual cost per megagram for some facilities choosing to improve product recovery might exceed the projected cost per megagram of using a flare, boiler, heater, or incinerator. Nevertheless, such a facility would probably choose to improve product recovery rather than use a combustion device due to the lower cost.

Compounds Used in Determining Compliance. The proposed standards are intended to reduce emissions of VOC through the application of best demonstrated technology (BDT) (considering costs and other impacts); and the emission limits in the standards are designed to reflect the performance of BDT. The best demonstrated technologies applicable to distillation operations do not selectively control VOC (that is, the proportion of the organics that is regarded as photochemically reactive), but rather these technologies control all organic compounds. Moreover, the numerical values of the emission limits (including 98 percent reduction, 20 ppmv, and TRE index cutoff), in the case of distillation operations, were based on total organic compounds data which excluded methane and ethane.

To reflect accurately the performance of the technologies selected as BDT and to make the emission limits consistent with the data test methods from which the limits were derived, EPA has expressed the standards in terms of total organic compounds, minus methane and ethane. For the same reason, the test procedure in the proposed standards prescribes measurement of total organic

compounds, excluding methane and ethane. In short, EPA is relying on control of total organic compounds, minus methane and ethane, as the best demonstrated surrogate for controlling volatile organic compounds, which react to form ozone in the atmosphere.

Modification/Reconstruction

The proposed standards would apply to all affected facilities, which commenced construction, reconstruction, or modification after the date of proposal of the NSPS. Modification is defined in 40 CFR 60.14 as "any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant [to which a standard applies] emitted into the atmosphere by that facility, or which results in the emission of any air pollutant [to which a standard applies] into the atmosphere not previously emitted." (Section 60.14 lists a few cases which would not be considered modifications even if emissions increased.) Reconstruction, as defined in 40 CFR 60.15, occurs when components of an existing facility are replaced to such an extent that: (1) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and (2) it is technologically and economically feasible to meet the applicable standards.

Potential modifications involving organic chemical distillation operations include process equipment changes, changes in operating parameters, or a combination of both. Distillation is generally a low maintenance operation. However, it is not uncommon for a chemical producer to replace distillation column internals such as trays and packing. Replacement with the same type of trays or packing is not a modification, but an emissions increase caused by a replecement with a different type of trays or packing could result in a modification. Similarly, replecement of column accessories (e.g., reboiler, condenser, vacuum systems) could not be considered a modification unless the replacement involved a design which led to increased emissions. A change in the inlet feed stream to the distillation unit (either to different proportions of the same chemical, or to different chemicals entirely) could be considered a modification if an emissions increase resulted and if the unit was not originally designed to handle the different feedstreams.

In most cases, equipment changes for a distillation operation are not a high cost compared to the cost of a new facility. Therefore, it is expected that there would be few changes that would constitute a reconstruction.

It is expected that very few, if any, existing distillation units will become affected facilities as a result of modifications or reconstructions.

Selection of Monitoring Requirements and Test Methods

Percent Reduction/Concentration Limit. The combined gas chromatograph/flame ionization detection method (GC/FID) (Reference Method 18) is the best available procedure for determining emissions from distillation facilities. It has the advantage of being able to measure individual organic compounds. Details concerning the use of this methodology, including sampling, analysis, preparation of standards, calibration procedures, and reporting of results are discussed in Reference Method 18, Measurement of Gaseous Organic Compound Emissions by Gas Chromatography, which was promulgated with the NSPS for SOCMI equipment leaks.

The owner or operator of a facility using an incinerator to comply with the proposed 98 percent/20 ppmv emission limit would be required to determine compliance according to the proposed Reference Method 18 during any performance test. Reference Method 1 or 1A would be required, as appropriate, to be used for selection of the sampling site. The control device inlet sampling site for determination of reduction efficiency would be required to be prior to the inlet of any combustion device and after all product recovery units. As discussed below under monitoring requirements, substantial changes in vent stream flowrate could alter the reduction efficiency. Therefore, in order to provide a basis for subsequent monitoring of control device inlet flowrate, this parameter would be required to be measured in any performance test. Reference Method 2, 2A, or 2C would be required, as appropriate, to be used for determination of the volumetric flowrate. Reference Method 3 would be required to be used for an air dilution correction, based on 3 percent oxygen in the emission sample.

If any nondistillation offgas stream(s) were normally routed through the product recovery train or directly to the control device of the affected facility, the proposed standards would permit such a stream to be routed normally during any performance test to determine compliance with the proposed reduction requirement. The Agency considered requiring such streams to be rerouted or turned off, in order to assure that 98 percent reduction, or reduction to 20 ppmv, would be achieved for combustion of the distillation stream itself. However, the Agency determined that if a preformance test conducted on such a facility while routing its nondistillation offgas normally showed compliance with the proposed emission limit, that limit would also be achieved by the combustion device when only the distillation vent stream is routed through it, provided that the combustion device operating parameters, such as temperature, remained unchanged. Therefore, the Agency concluded that requiring the nondistillation stream to be rerouted or turned off during a performance test would be unnecessary.

The Agency believes, however, that boilers and heaters with a design heat input capacity of 44 MW (150 million Btu/hr) or greater would achieve a reduction efficiency of 98 percent or reduction to 20 ppmv, so long as the distillation stream is introduced into the flame zone. Therefore, the Agency believes that an initial measurement of control efficiency would not be necessary for boilers of this size. As explained in the discussion of combustion kinetics given in the background information document, a firebox temperature of 1,100°C and 1 second residence time represent the conditions that might in the worst case be necessary to achieve 98 percent reduction, even if the organics were chlorinated. Boilers (and heaters) with a design heat input capacity of 150 million Btu/hr or greater are operated at temperatures and residence times greater than 1,100°C and 1 second, respectively. (In some cases, the residence time is less than 1 second. However, in these cases, the firebox temperature is much greater than 1,100°C, and 98 percent reduction would still be achieved.) Other than an adequately high temperature and residence time, the two primary conditions necessary for high combustion device control efficiency are stable flowrate and adequate mixing of gases. It is to the economic advantage of the owners of facilities using boilers or process heaters to design and operate them with stable flowrates to avoid upsets. For the same reason, such devices would be designed and operated with adequate mixing of gases to maximize the extent of combustion, thereby maximizing the steam or heat generation rate. For these reasons, the Administrator has decided that using a boiler or heater with a design heat input capacity of 150 million Btu/hr or greater to control VOC emissions from distillation operations is an acceptable

means of demonstrating compliance with the proposed standards if the vent stream is introduced into the flame zone. Therefore, in accordance with § 60.8(b), the Administrator has waived the requirement for a performance test on such devices. An initial report is required within 180 days of startup, describing the location at which the vent stream is introduced into the boiler or process heater. The reference methods applicable to incinerators apply to the smaller boilers and process heaters.

As explained under selection of the format of the standard, an equipment standard was selected for cases where a flare is used to meet the standards. Therefore, a performance test measuring percent reduction is not required for streams equipped with flares. However, part of the standards requires that the flare be smokeless. Reference Method 22, as reviewed, has been selected to determine whether a flare is smokeless. Furthermore, certain other criteria must be met in order for flares to be used. The net heating value of the flared stream must be determined for compliance with the heat content criterion set for the different flare types; the velocity of the gas at the flare tip must be measured to ensure compliance with the maximum exit gas velocity allowed for flares. The methods for determining these values are given in § 60.664 of the regulation. Flowrate and heat content of the flared stream are to be determined in accordane with the procedures prescribed for determination of these values for streams vented to other combustion devices (e.g., incinerators, boilers, process heaters).

Incinerators used to comply with the proposed emission limit need to be maintained and operated properly if a 98 percent reduction, or reduction to 20 ppmv is to be achieved on a continuing basis. Monitoring can generally be used to ensure such proper operation and maintenance is occurring. Two methods of monitoring to ensure the proper operation and maintenance of the control equipment used to comply with the proposed emission limit were considered. These methods were continuous emission monitoring and continuous combustion control device parameter measurement. Examples of such parameters are combustion temperature and vent stream flowrate.

Continuous combustion control device inlet and outlet emission monitoring would be the preferred method of monitoring, because it would provide a continuous, direct measurement of actual emissions. However, no continuous monitor measuring total organic (minus methane and ethane) has been demonstrated for incinerators because each of the many different compounds in distillation vent streams would have to be identified separately and the concentrations determined. Moreover, any such monitoring system would be extremely complex and labor intensive, as well as relatively expensive since two monitors could be required. Therefore, the Administrator has determined that continuous monitoring of compliance with the proposed standards (percent/concentration) is not feasible.

Provided that combustion parameters which accurately reflect the level of combustion device efficiency can be identified and continuously monitored, monitoring of such parameters alone would have several advantages, such as low cost and high reliability. However, a disadvantage of combustion parameters monitoring alone is that the correlation of the parameters with the numerical emission limit is not exact. However, exact correlation is not necessary if the parameter monitored would demonstrate proper operation and maintenance of the control device.

The combustion device operating parameters that affect incinerator performance were analyzed. These variables are temperature, mixing, type of compound, residence time, inlet concentration, and flow regime. Of these variables, the last two were judged to have only a small impact on incinerator performance. Residence time is essentially set after incinerator construction unless the vent stream flowrate is changed. At temperatures above 760°C, the compound type has little effect on combustion efficiency. The two remaining variables were then analyzed in more detail to define their impact on performance and the ability to monitor them.

Temperature was analyzed first. Test results and theoretical calculations show that lower temperature can cause significant decreases in control device efficiency. Test results also indicate that temperature increases can also adversely affect control device efficiency, apparently by decreasing the thoroughness of mixing of offgas, burner gases, and combustion air. In terms of cost, temperature monitors are relatively inexpensive, costing less than $5,000 installed with strip charts, and are easily and cheaply operated. Given the large effect of temperature on efficiency and the low cost of temperature monitors, this variable is clearly an effective parameter to monitor. The proposed standards would, therefore, require the owner or operator of an affected facility using a thermal incinerator to comply with the proposed 98 percent/20 ppmv emission limit to install, calibrate, maintain, and operate according to manufacturer's specifications a temperature measurement device. This device would be required to be equipped with a continuous recorder and have an accuracy of one percent of the temperature being measured, expressed in degrees Celsius, or ±2.5°C, whichever is greater. The device would be required to be installed in the firebox. If a catalytic incinerator were used, the temperature measuring device would be required to be installed in the gas stream immediately before and after the catalyst bed.

Flowrate of the distillation vent stream to the combustion device was the next parameter to be analyzed as a potential monitoring parameter. Where a combustion device is used to incinerate waste VOC streams alone, flowrate can be an important measure of destruction efficiency since it relates directly to residence time in the combustion device. Distillation vent stream flowrates are typically small in comparison to other streams that may also be ducted to the same combustion device. As a result, flowrate may not always give a reliable indication of the vent stream residence time in the device. But an indication of distillation vent stream flowrate to the combustion device gives assurance that the VOC is being routed for proper destruction. Flowrate monitors, at an estimated installed cost of less than $2,000, are inexpensive and easy to operate. Therefore, since it gives an indication that the organic-laden stream is being routed for destruction and it is inexpensively monitored, flowrate is also an effective parameter to monitor for combustion devices.

The proposed standards would also require the operator of an affected facility using an incinerator to comply with the proposed emission limit to install, calibrate, maintain, and operate a flow meter, according to the manufacturer's specifications. This device would be required to be equipped with a continuous recorder and have an accuracy of 5 percent of the flowrate being measured. The flow meter would be required to be installed at the combustion device inlet.

These two combustion parameters (temperature and flowrate) would be required to be measured during the original (or most recent) performance test. These parameters would then be monitored to determine if their values deviated from the values measured during the performance test.

If a distillation vent stream is introduced into the flame zone of a boiler (or process heater) of any size, it is necessary, for the purpose of ensuring proper operation and maintenance, to know that the boiler (or heater) is operating and to know that the waste gas is being introduced into the boiler (or heater). The maintenance of records (such as steam production records) would be required which would indicate the periods of operation of the boiler (or heater). The nature of the records to be kept to comply with this requirement are left to the discretion of the owner or operator of the facility, but they must be readily available for inspection. To ensure that the vent stream is being introduced into the boiler (or heater), the proposed standards require owners or operators to install and operate a flow indicator that provides a record of vent stream flow to the boiler (or heater) for each distillation vent stream.

For heat generating units (boilers and process heaters) of less than 44 MW (150 million Btu/hr) heat input design, performance testing is required to ensure efficient VOC destruction. For these units, just as for incinerators, temperature would be required to be measured during the original (or most recent) performance test and to be monitored to determine if it deviated from the values measured during the performance test. Monitoring of temperature would not be required for heat generating units with a design heat capacity of 44 MW or greater.

A flare will be in compliance with the proposed standards provided that the flare is operating smokelessly (i.e., no more than 5 minutes of visible emissions from any 2-hour period), a flame is present, the minimum heat content requirements for the flared gas are met, and a maximum exit gas velocity is not exceeded. Because flares are not enclosed combustion devices, it is not feasible to measure combustion parameters. Moreover, temperatures and residence times are more variable throughout the combustion zone for flares than for enclosed devices and, therefore, such measurements would not necessarily provide a good indicator of flare performance even if measurable. The typical method of monitoring continuous operation of a flare is visual inspection. However, if a flare is operating smokelessly, it can be difficult to determine if a flame is present, and it may take several hours to discover. The presence of a flame can also be determined through the use of a heat sensing device on a flare's pilot flame, such as a thermocouple or ultra-violet (U–V) beam sensor. If a flame is absent, the temperature probe can be used to alert the plant operator. The cost of available thermocouple sensors ranges in price from $800 to $3,000 per pilot. (The more expensive sensors in this price range have elaborate automatic relight and alarm systems.) One drawback of thermocouples is that they burn out if not installed properly. The cost of a U–V sensor is approximately $2,000. However, the U–V system would not be as accurate as a thermocouple in indicating the presence of a flame. The U–V beam is influenced by ambient infrared radiation that could affect the accuracy. Interference between different U–V beams would make it difficult to monitor flares with multiple pilots. U–V sensors are designed primarily to monitor flames within enclosed combustion devices. Therefore, thermocouples are a superior monitoring methodology for flares. Therefore, the proposed standards would require installation of a themocouple heat sensor to indicate the presence of a flame to ensure proper operation and maintenance of a flare.

Among the criteria governing the use of flares under the proposed standards is a maximum exit gas velocity requirement. Compliance with this requirement is determined by performance testing. While continuous monitoring of the exit gas velocity is not required, it is important to ensure that the vent stream is continuously vented to the flare. Therefore, the proposed standards would require the owner or operator of an affected facility using a flare to comply with the proposed standards to install and operate a flow indicator that provides a record of vent stream flow to the flare for each distillation vent stream.

TRE Index Cutoff. Calculation of the total resources effectiveness (TRE) index value for an affected facility is dependent upon measurement of the offgas volumetric flowrate, net heating value, total organic emission rate (minus methane and ethane), and corrosion properties (presence or absence of halogenated compounds). These measured values are used to select the corresponding coefficients and then are inserted into an equation specified in the proposed standards for calculation of the TRE index. Reference Method 1 of 1A would be required, as appropriate, to be used for selection of the site for measuring the offgas flowrate and molar composition. The sampling site would be required to be prior to any post-distillation unit dilution of the stream with air, prior to any post-distillation unit introduction of halogenated compounds into the stream, and also prior to the inlet of any combustion device. Subject to the requirements just mentioned, the sampling site would also be required to be downstream of all product recovery equipment, with a few exceptions.

The final piece of product recovery equipment will not always be associated with only one affected distillation unit, and it can sometimes include other distillation or nondistillation facilities. There are a number of such configurations that could influence the location and number of sampling sites required. One possibility is for several new distillation facilities to be ducted to a common recovery device. A sampling site located downstream of the device would yield one TRE index that would be applied to each facility sharing that device. The Agency considered requiring separate sampling sites for each facility upstream of the device, since it would be possible to duct one affected facility with a high TRE index value to the device solely for the purposes of raising the overall TRE index value to the extent that a combustion requirement was avoided for the other units. However, as indicated by Table 1, a very low percentage of distillation units would have TRE index values at or near the cutoff for the standards. Most units will either be significantly higher or significantly lower. Therefore, it is expected that there will be very few such instances and the additional testing would likely result in only a negligible, if any, reduction in VOC emissions. Consequently, the proposed standards permit a single sampling site for all affected facilities ducted to a common recovery device. A second possibility is for a common product recovery device to be designated to include one or several new distillation facilities together with one or more existing facilities. In such cases, a TRE index value determined at a sampling site downstream from the product recovery device could dictate that the entire stream be combusted. On the other hand, the standards require that the portion of the stream contributed by the new facilities be controlled if the costs and other impacts are reasonable. Therefore, the standards require that a TRE index value in such cases be determined for the portion of the stream contributed by the new units only. There are two ways in which such a TRE index value could be determined: the first method would require the owner or operator to bypass or reroute the existing distillation units during the performance test, and the second method would require the existing units

to be routed normally and calculation of the TRE index would be based upon a mass balance using a sampling site downstream of all of the new units, plus sampling sites upstream and downstream of the product recovery device to determine its overall control efficiency. The Agency chose the second method for such cases since it is probable that the recovery device would be designed to recover the chemicals from the combined stream and the efficiency of the device would affect the characteristics of all constituent streams fed to the device in the same manner. A third possible configuration involves an offgas stream of an affected facility (or group of affected facilities) which is normally routed through a final product recovery device that is shared with a nondistillation gas stream. The Agency considered requiring in the proposed standards that such nondistillation streams be bypassed during any performance test to determine compliance with the TRE index cutoff, until the measurements for determining offgas flowrate and molar composition had been made. However, distillation units typically have low flowrates, and the efficiency of the product recovery device with the distillation vent stream in combination with the nondistillation stream would often be different from the efficiency of a similar device designed to handle only the distillation stream. For purposes of determining compliance with the TRE index cutoff, this requirement would not always be practical. Furthermore, it is reasonable to conclude that such a recovery device would be designed to recover the chemicals from the specific vent streams and that an overall device efficiency would be applicable to each constituent vent stream. Therefore, for purposes of determining compliance with the TRE index cutoff for such cases, the Agency requires that the TRE index be determined based upon the portion of the product recovery outlet stream contributed by the distillation facilities. Thus, it is necessary to locate sampling sites directly upstream and downstream of the product recovery device (to determine the overall control efficiency for the device), and also directly downstream of the distillation facility or group of facilities. Compliance with the TRE index cutoff would be determined for the portion of the vent stream contributed by distillation units by determining the effects of the overall efficiency of the device upon the characteristics of the vent stream determined from the upstream sampling site (or sites) and by measuring flowrate and molar composition at a point just downstream of each affected facility.

For any sampling site, the volumetric flowrate would be required to be determined according to Reference Methods 2, 2A, or 2C, as appropriate. The molar composition of the offgas stream, including the total molar concentration of halogenated compounds, would be required to be calculated according to the proposed Reference Method 18, Measurement of Gaseous Organic Compound Emission by Gas Chromatography. The water vapor concentration of the vent stream would be required to be calculated according to Reference Method 4 for inclusion in the carbon monoxide concentration correction equation.

The net heating value of the process vent stream (25°C, 760 mm Hg) would be required to be calculated according to an equation specified in the regulation. This equation would make use of the molar composition of the offgas stream, as measured by Reference Methods 4 and 18. The net heat of combustion of each offgas component would be required to be determined using ASTM D2382–76 if pubished values are not available or cannot be calculated. This method of determining net heating value was chosen because it would not require a separate test procedure from that required for determination of reduction efficiency and offgas chlorination. Moreover, the Agency believes that the proposed method for determining net heating value would be more accurate than any available direct experimental measure, such as bomb calorimetry.

The total organic mass emission rate (minus methane and ethane) of the process vent stream would also be required to be calculated according to an equation specified in the regulation. This equation would make use of the molar composition of the offgas stream, as measured by Reference Method 18, and of the volumetric flowrate, as measured by Reference Method 2.

After an initial performance test to determine compliance with the proposed TRE index cutoff value, variations in process parameters, process modifications or improper operation or maintenance of product recovery equipment could lead to higher emissions and a true TRE index below the cutoff. Some method is necessary to determine if the TRE index measured during the initial performance test has changed. Methods considered were continuous monitoring of selected operating parameters of the final piece of product recovery equipment in the affected facility train and periodic performance testing of the TRE index of the facility. As explained previously, continuous vent stream molar composition and flowerate monitoring are not feasible.

The first method investigated for determining if the initial TRE index had changed involved the monitoring of product recovery device parameters. The operating parameters of the three types of product recovery equipment commonly used in distillation operations were analyzed for correlation with product recovery device operation and maintenance which in turn would give an indication of changes in TRE index. The three commonly used types of product recovery equipment are absorbers, condensers, and carbon adsorbers.

For an absorber, two operating parameters were identified as the primary determinants of product recovery device operation: absorbing liquid temperature and specific gravity (or some other parameter used by a facility to measure absorbing liquid saturation). In the absence of the proposed standard, facilities employing an absorber for product recovery would, in general, continuously monitor some parameter related to the degree of saturation of absorbing liquid with recovered material. Specific gravity is one such parameter which is frequently monitored. Absorbing liquid temperatrue monitors and specific gravity measurement devices are available at a reasonable cost. The estimated one-time combined capital investment for such equipment is $8,000. These absorption parameters would be required to be measured during each performance test. (If approved by the enforcing Agency, an alternate parameter which would indicate the degree of absorbing liquid saturation could be measured during each performance test.) These absorption parameters would then be monitored to determine if any value had changed since the performance test. This monitoring would indicate whether the absorber were being properly operated and maintained. Therefore, an operator of an affected facility for which an absorber was the final unit in the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specifications an absorbing liquid temperature monitor and specific gravity measurement device (or an alternate device which would measure the degree of absorbing liquid saturation, if approved by the enforcing agency), each continuously recorded.

For a condenser, the exit (product side) temperature of the offgas was

identified as the primary determinant of product recovery device operation. Condenser temperature monitors are available at a reasonable cost. The estimated one-time capital investment for such equipment is $3,000. The condenser exit (product side) temperature would be required to be measured during each performance test. The temperature would then be monitored to determine if the value had changed since the most recent performance test. This monitoring would indicate whether the condenser was being properly operated and maintained. Therefore, an operator of an affected facility for which a condenser were the final unit in the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specifications a condenser temperature monitor equipped with a continuous recorder.

For a carbon adsorber, the carbon bed temperature (after regeneration and completion of any cooling cycle), as well as the amount of steam used to regenerate the adsorption bed, were identified as the primary determinants of product recovery device operation. Steam flow meters which indicate the quantity of steam used over a period of time and bed temperature monitors are available at a reasonable cost. The estimated one-time capital investment for such equipment is $10,000. These adsorption parameters would be required to be measured durinig each performance test. These adsorption parameters would then be monitored to determine if any value had changed since the most recent performance test. This monitoring would indicate whether the carbon adsorption unit was being properly operated and maintained. Therefore, an operator of an affected facility for which a carbon adsorber is the final unit of the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specifications an integrating steam flow meter and a carbon bed temperature measurement device, each equipped to be continuously recorded. Some new carbon adsorbers may include vent stream organic concentration monitors to aid operators maximizing the recovery of raw materials or products. No widely accepted performance specifications have been developed for such organics concentration monitors and, therefore, these devices are not being required at the present time. However, such devices may be approved by the Administrator on a case-by-case basis. If an organics concentration measuring device is used, but a recording device is not installed to provide a permanent time record of the measurement, then the vent stream must be sampled at the end of the adsorption cycle (at least once during every 4 hours of operation) and the concentration recorded.

The enforcement agency would specify, on a case-by-case basis, appropriate monitoring procedures or requirements where the owner or operator of an affected facility uses emission control or product recovery techniques other than those specified to comply with the proposed standards.

Some distillation operations recycle all vapors to the manufacturing process and, therefore, do not emit VOC. For some distillation operations, the overhead condenser recovers virtually all vapors such that there is essentially no vent stream to the atmosphere. It is not possible to detect accurately a zero flowrate, and therefore the Agency excludes zero flowrate units by including a flowrate cutoff within the detectable limit. Examination of the reported data showed that more than 90 percent of distillation VOC emissions are from units with flowrates greater than 0.008 m^3/min (0.3 scfm). Furthermore, analysis of theses data indicated that vent streams below this level would not be required to implement combustion controls on the basis of an unreasonably high control cost per megagram of VOC destroyed. Therefore, the proposed standards do not require units with flowrates less than 0.008 m^3/min to reduce emissions.

Selection of Reporting and Recordkeeping Requirements

The General Provisions require submittal of several one-time notifications for occurrences such as construction, modification, reconstruction, scheduled dates for performance tests, and performance test results. Owners and operators of boilers and process heaters with design heat input capacities of 150 million Btu/hr or greater would not report performance test results, since the proposed standards would waive the requirement of such a test. Instead, operators would be required to file an initial report describing the location at which the distillation vent stream is introduced into the boiler (or heater) to be used. Owners and operators of flares used to comply with the proposed standards would also be required to file an initial report on the results of performance testing to determine compliance with the visible emission requirements and the heat content and maximum exit gas velocity criteria for flares.

The proposed standards exempt distillation facilities from the quarterly reports required by the General Provisions. However, records of startup, shutdown, and malfunction would still be required. Also, records indicating whether control equipment is being properly operated and maintained would be required. The proposed standards would require those facilities not required. The proposed standard would required those facilities not required to control VOC emissions because their flowrate was less than 0.008 m^3/min to maintain records of any changes in process operation that would impact on their flowrate.

Records indicating proper operation and maintenance would be based on the monitoring of control device or product recovery device parameters discussed in the previous section. Two types of records would be required. The first would be the monitoring results themselves. This information can be automatically recorded, and, therefore, essentially the only labor necessary for keeping these records would consist of filing automatically recorded parameters. The second type of record would be a tabulation of periods when the measurements of these automatically recorded parameters significantly deviated from measurements of the same parameters during the most recent performance test. Although this requires more effort, it is a necessary step for both the owner or operator and enforcement agency to ensure that the control equipment is being properly operated and maintained. This information would be necessary for the owner or operator to know when to make necessary corrections to the control equipment. For this second type of record it would be necessary for the owner or operator to record control device or recovery equipment operating parameters, as appropriate, during all performance tests and keep these records for purposes of comparison. The owner or operator would not be required to record all deviations from these measurements, but only certain deviations as listed in the proposed regulation. All records would be required to be kept up to date and in readily accessible files for 2 years. The parameter boundaries included in the proposed regulation would allow for normal fluctuations in operation of the equipment monitored. The VOC reduction efficiency of the control device would not be affected by sucl. normal fluctuations.

Where a product recovery system is used to comply with the proposed TRE index value, the proposed standards

would also require recording of any change in production capacity; feedstock type or catalyst type; or of the replacement, removal, or addition of product recovery equipment. When any such change occurs, the TRE index value would have to be recalculated to document that the facility continues to have a TRE index value above 1.0. Such recalculation can be based on the best engineering estimates of the effects of the change or on emission test data. A record would be maintained of the recalculated TRE index value. If the recalculated TRE index value for the facility is below 1.0, the owner or operator of the facility would have to demonstrate compliance with the 98 percent or 20 ppmv emission limits. Notice of any performance test would be given to EPA as required by the General Provisions.

In addition to the one-time notifications and performance test reports discussed above, semiannual reporting of recorded data would be required for instances where monitored parameters exceed the allowable limitations set forth in the standards. These data include the operating parameters cited above for combustion and other control devices. Other instances that would be reported semiannually are periods of no flow to incinerators used for compliance with the standards and periods where there is no flame present for flares used for compliance with the standards. The requirement for semiannual reporting, however, is waived for affected facilities in States where the program has been delegated, if EPA, in the course of delegation, approves reporting requirements or an alternative means of source surveillance adopted by the State. Such affected facilities would be required to comply with the requirements adopted by the State.

Impacts of Reporting and Recordkeeping Requirements

The information provisions associated with this proposed rule (40 CFR 60.7 and 40 CFR 60.665) have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection provisions. During the first 2 years of this regulation the average annual burden of the reporting and recordkeeping requirements would be 28.1 person-years, based on an average of 236 respondents per year.

Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of the preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of the preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review [except as noted in Section 307(d)(7)(A)].

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for SOCMI distillation units was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that SOCMI contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods.

This regulation will be reviewed within 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

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: (1) The national annualized compliance costs, including capital charges resulting from the standards total less than $100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets. As explained in the section entitled *Selection of Best Demonstrated Technology*, cost per megagram of emission reduction was an important factor considered in selecting the proposed standards.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are included in Docket Number A-80-25. The docket is available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to the current guidelines of the Small Business Administration, a small business that uses distillation operations in the manufacture of synthetic organic chemicals is one that has 750 employees or less. Currently, about 24 percent of the existing producers of the 219 affected chemicals (41 of 169 producers) are estimated to be small by this definition. Since 600 plants

would be affected by the proposed standards in the first five years, all 41 small producers could potentially be affected by the NSPS.

Based upon the economic screening analysis, the control costs associated with the proposed standards would be small since no chemical that is covered by these standards would have a cost increase of 5 percent or greater of the projected chemical price in 1987. Even under the worst case costing assumptions used in the economic screening analysis, 86 percent of the 219 chemicals would have price increases below 2 percent, and 95 percent of the chemicals would have price increases less than 3 percent. Therefore, no plants would suffer significant economic impact under this NSPS.

It is difficult to estimate the specific effects of the NSPS on new businesses entering the industry. In general, however, if a company has the capital available to enter the industry, the NSPS will require only a small percentage increase in the capital needed for the project.

Pursuant to the provisions of 5 U.S.C.A 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60:

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators.

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations by adding Subpart NNN as follows:

Subpart NNN—Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Distillation Operations

Sec.

60.660 Applicability and designation of affected facility.
60.661 Definitions.
60.662 Standards.
60.663 Monitoring of emissions and operations.
60.664 Reference methods and procedures.
60.665 Reporting and recordkeeping requirements.
60.666 [Reserved]
60.667 Chemicals affected by Subpart NNN.

Authority: Sec. 111 and 301(a), Clean Air Act, as amended, U.S.C. 7411, 7601(a), and additional authority as noted below.

§ 60.660 Applicability and designations of affected facility.

(a) The provisions of this subpart apply to each distillation unit operating as a part of a process unit which produces any of the chemicals in § 60.667. Distillation units operating as part of a process unit which produces polymers and resins, coal tar, or beverage alcohols, or which uses, contains, or produces no volatile organic compounds are not affected facilities.

(b) Any facility under paragraph (a) of this section that commences construction after December 30, 1983 would be subject to the requirements of this subpart.

(c) Any distillation unit which is in a process unit that has a design capacity less than 1 Gg/yr does not have to meet the specifications in this subpart, except for the recordkeeping requirements in paragraph (i) of § 60.665.

(d) Any distillation unit which is designed with a maximum vent stream flowrate less than 0.008 m^3/min does not have to meet the specifications in this subpart, except for the recordkeeping requirements in paragraph (h) of § 60.665.

Note.—The intent of these standards is to minimize the emissions of VOC through the application of best demonstrated technology (BDT). The numerical emission limits in these standards are expressed in terms of total organic compounds, measured as total organic compounds less methane and ethane. This emission limit reflects the performance of BDT.

§ 60.661 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in Subpart A of Part 60, and the following terms shall have the specific meanings given them.

"Boilers" means any enclosed combustion device that extracts useful energy in the form of steam.

"By compound" means by individual stream components, not carbon equivalents.

"Corrosive vent stream" means any vent stream determined to have a total concentration (by volume) of compounds containing chlorine or other halogens of 20 ppmv (by compound) or greater.

"Distillation operation" means a continuous or batch operation separating one or more feed stream(s) into two or more product streams, each product stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor-phase as they approach equilibrium within the distillation unit.

"Distillation unit" means a device or vessel in which distillation operations occur, including all associated internals (such as trays or packing) and accessories (such as reboiler, condenser, etc.), plus any associated recovery system.

"Flame zone" means the portion of the combustion chamber in a boiler occupied by the flame envelope.

"Incinerator" means an enclosed combustion device that is used for destroying organic compounds and does not extract energy in the form of steam or process heat.

"Total organic compounds" means those compounds measured according to the procedures in § 60.664.

"Process heater" means a device that transfers heat liberated by burning fuel to fluids contained in tubular coils, including all fluids except water that is heated to produce steam.

"Process unit" means equipment assembled to produce, as intermediate or final products, one or more of the chemicals in § 60.667.

"Recovery system" means an individual unit or series of material recovery units, such as absorbers, condensers, and carbon adsorbers, capable of and used for the purpose of recovering total organic compounds from a vent stream.

"Total resource effectiveness (TRE) index value" means a measure of the supplemental total resource requirement per unit reduction of total organic compounds (less methane and ethane) associated with an individual distillation vent stream, based on offgas flowrate, emission rate of total organic compounds (less methane and ethane), net heating value, and corrosion properties (whether or not the vent stream is halogenated,) as quantified by the equation given under § 60.664(c)(7).

"Vent stream" means any gas stream released to the atmosphere from any distillation unit.

§ 60.662 Standards.

On or before the date on which the performance test is required by § 60.8, each owner or operator subject to the provisions of this subpart shall comply

with one of the following for each vent stream.

(a) Reduce emissions of total organic compounds (less methane and ethane) by 98 weight percent, or to a total organic compound (less methane and ethane) concentration of 20 ppmv, expressed as the sum of the actual compounds, not carbon equivalents, on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this paragraph, then the vent stream shall be introduced into the flame zone of the boiler or process heater.

(b) Combust the emissions in a flare:

(1) That is designed for and operated with no visible emissions as determined by the methods specified in § 60.664(b), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(2) That is operated with a flame present at all times, as determined by the methods specified in § 60.663(b).

(3) That is used only with the net heating value of the gas being combusted being 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted being 7.45 MJ/scm (200 Btu/scf) or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in § 60.664(c).

(4) That is designed for and operated with an exit velocity, as determined by the methods specified in § 60.664(c), less than 18 m/sec (60 ft/sec) if steam-assisted or nonassisted.

(5) That is steam-assisted, air-assisted, or nonassisted.

(6) That is designed and operated with an exit velocity less than the velocity, V_{max}, as determined by the methods specifed in § 60.664(e) if air-assisted.

(c) Maintain a total resource-effectiveness (TRE) index value greater than 1.0 without use of combustion devices.

§ 60.663 Monitoring of emissions and operations.

(a) The owner or operator of an affected facility that uses an incinerator to seek to comply with the total organic compound emission limit specified under § 60.662(a) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

(1) A temperature measurement device equipped with a continuous recorder and having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater.

(i) Where an incinerator other than a catalytic incinerator is used, a temperature measurement device shall be installed in the firebox.

(ii) Where a catalytic incinerator is used, temperature measurement devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) At the inlet of each incinerator, a flow meter equipped with a continuous recorder and having an accuracy of 5 percent of the vent stream flowrate being measured.

(b)(1) The owner or operator of an affected facility that uses a flare to seek to comply with § 60.662(b) shall install, calibrate, maintain and operate according to manufacturer's specifications a heating sensing device at the pilot light to indicate the continuous presence of a flame.

(2) The owner or operator of an affected facility that uses a flare to seek to comply with § 60.662(b) shall install and operate according to the manufacturer's specifications a flow indicator that provides a record of vent stream flow to the flare at least once every hour for each affected facility.

(c) The owner or operator of an affected facility that uses a boiler or process heater to seek to comply with § 60.662(a) shall:

(1) Install and operate according to the manufacturer's specifications a flow indicator that provides a record of vent stream flow to the boiler or process heater at least once every hour for each affected facility.

(2) Install in the firebox, calibrate, maintain, and operate according to manufacturer's specifications a temperature measurement device equipped with a continuous recorder and having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater, for boilers or process heaters of less than 44 MW (150 million Btu/hr) heat input design capactiy.

(3) Maintain such records to indicate the periods of operation of the boiler or process heater if the design heat input capacity of the boiler or process heater is 44 MW (150 million Btu/hr) or greater. The records must be readily available for inspection.

(d) The owner or operator of an affected facility that seeks to comply with the TRE index value limit specified under § 60.662(c) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator:

(1) Where an absorber is the final unit in a system, a scrubbing liquid temperature monitor having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater, and a specific gravity measurement device having an accuracy of ±0.02 specific gravity unit, each equipped with a continuous recorder.

(2) Where a condenser is the final unit in a system, a condenser exit (product side) temperature monitor equipped with a continuous recorder and having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater.

(3) Where a carbon adsorber is the final unit in a system, an integrating steam flow meter having an accuracy of ± 10 percent, a carbon bed temperature monitor having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever, is greater.

(e) An owner or operator of an affected facility complying with the standards specified under § 60.662 with control devices other than an incinerator, boiler, process heater, flare, absorber, condenser, or carbon adsorber shall provide to the Administrator information describing the operation of the control device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

(Section 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9)

§ 60.664 Reference methods and procedures.

(a) The following reference methods and procedures, except as provided under § 60.8(b), shall be used to determine compliance with the emission limit specified under § 60.662(a).

(1) Reference Method 1 or 1A, as appropriate, for selection of the sampling site. The control device inlet sampling site for determination of offgas molar composition or total organic compound reduction efficiency shall be prior to the inlet of any combustion device and after all product recovery units.

(2) Reference Method 2, 2A, 2C, or 2D, as appropriate, for determination of the volumetric flowrate.

(3) Reference Method 3 for air dilution correction, based on 3 percent oxygen in the emission sample.

(4) Reference Method 18 and ASTM D2504-67 (reapproved 1977) to

determine hourly emission rate of total organic compounds (minus methane and ethane) in the combustion device outlet and total organic compound (minus methane and ethane) reduction efficiency of the combustion device.

(5) Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to seek to comply with § 60.662(a), the requirement for an initial performance test is waived, in accordance with § 60.8(b). However, the Administrator reserves the option to require testing at such other times as may be required, as provided for in § 114 of the Act.

(b) When a flare is used to seek to comply with § 60.662(b), a performance test according to Reference Method 22 shall be performed to determine visible emissions. The observation period shall be at least 2 hours except as otherwise specified in Reference Method 22.

(c) The following reference methods and procedures, except as provided under § 60.8(b), shall be used for determining the net heating value of the gas combusted to determine compliance under § 60.662(b) and for determining the process vent stream TRE index value to determine compliance under § 60.662(c).

(1) Reference Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream flowrate and molar composition determination prescribed in § 60.664(b)(2) and (3) shall be, except for the situations outlined in paragraphs (i)(ii) and (iii) of this section, prior to the inlet of any combustion device, prior to any post-distillation dilution of the stream with air, and prior to any post-distillation introduction of halogenated compounds into the process vent stream.

(i) If any gas stream other than the distillation vent stream is normally conducted through the final recovery unit, the sampling sets for vent stream flowrate and molar composition shall be prior to the final recovery device and prior to the point at which the nondistillation stream is introduced. The efficiency of the final recovery device is determined by measuring the total organic compound concentration (minus methane and ethane) using Reference Method 18 at the inlet to the final recovery device after the introduction of the nondistillation vent stream and at the outlet of the final recovery device. This efficiency is applied to the total organic compound concentration (minus methane and ethane) measured prior to the final recovery device and prior to the introduction of the nondistillation stream to determine the concentration of total organic compounds (minus methane and ethane) in the distillation vent stream from the final recovery device. This concentration of total organic compounds (minus methane and ethane) is then used to perform the calculations outlined in § 60.664(b)(4) and (5).

(ii) If two or more distillation streams subject to the provisions of this subpart share a common recovery device, the sampling site for the vent stream flowrate and molar composition determination shall be at the outlet of the last common recovery device.

(iii) If an affected distillation column shares a common recovery device with one or more existing distillation columns, the vent stream flows rate and molar composition shall be measured at the inlet of the common recovery device before the existing distillation column(s) vent stream is introduced. The efficiency of the final recovery device is then determined by measuring the concentration of total organic compounds (minus methane and ethane) using Reference Method 18 at the inlet to the common recovery device after the introduction of the common recovery device. This efficiency is applied to the concentration of total organic compounds (minus methane and ethane) measured prior to the common recovery device and prior to the introduction of the existing distillation column(s) vent stream to determine the expected concentration of total organic compounds (minus methane and ethane) in the affected distillation vent stream from the common recovery device. This concentration of total organic compounds (minus methane and ethane) is then used to perform the calculations outlined in § 60.664(b)(4) and (5).

(2) The molar composition of the process vent stream shall be determined as follows:

(i) Reference Method 18 and ASTM D2504–67 (reapproved 1977) to measure the concentration of total organic compounds (minus methane and ethane), concentration of each compound containing halogens, and concentration of all other compounds present except water vapor and carbon monoxide.

(ii) Reference Method 4 to measure the content of water vapor.

(3) The volumetric flowrate shall be determined using Reference Method 2, 2A, 2C, or 2D, as appropriate. The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure) by the unobstructed (free) cross-sectional area of the flare tip.

(4) The net heating value of the process vent stream shall be calculated using the following equation:

$$H_T = K\left(\sum_{i=1}^{n} C_i H_i\right)$$

where:

H_T = Net heating value of the sample, MJ/scm, where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C, as in the definition of Q_s (offgas flowrate).

K = Constant, $1.740 \times 10^{-7} \left(\frac{1}{\text{ppm}}\right)\left(\frac{\text{g mole}}{\text{scm}}\right)\left(\frac{\text{MJ}}{\text{kcal}}\right)$

where standard temperature for $\left(\frac{\text{g mole}}{\text{scm}}\right)$ is 20°C.

C_i = Concentration of sample component i in ppm, as measured by Reference Method 18 and ASTM D 2504–67 (reapproved 1977).

H_i = Net heat of combustion of sample component i, kcal/g-mole. The heats of combustion of process vent stream components would be required to be determined using ASTM D2382–76 if published values are not available or cannot be calculated.

(5) The emission rate of total organic compounds (minus methane and ethane) in the process vent stream shall be calculated using the following equation:

$$E_{TOC} = K\left(\sum_{i=1}^{n} C_i M_i\right) Q_s$$

where:

E_{TOC} = Emission rate of total organic compounds (minus methane and ethane) in the sample, kg/hr.

K = Constant, 2.494×10^{-6} (1/ppm) (g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20°C.

M_i = Molecular weight of sample component i, g/g-mole.

Q_s = Vent stream flowrate (scm/min), at a standard temperature of 20°C.

(6) The total process vent stream concentration (by volume) of compounds containing halogens (ppmv,

by compound) shall be summed from the individual concentrations of compounds containing halogen which were measured by Reference Method 18.

(7) The TRE index value of the process vent stream shall be calculated using the following equation:

$$TRE = \frac{1}{E_{TOC}} [a(Q_s) + b(Q_s)^{0.8} + c(H_T) + d(Q_s)(H_T) + e(H_T)^{0.8} + f(E_{TOC}) + g]$$

where:

TRE = Total resource effectiveness index value.

Q_s = Vent stream flowrate (scm/min), at a standard temperature 20°C.

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy of per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C, as in the definition of Q_s.

E_{TOC} = Hourly emissions of total organic compounds (minus methane and ethane) reported in kg/hr measured at full operating flowrate.

a, b, c, d, e, f, and g are coefficients.

The set of coefficients which apply to a vent stream shall be obtained from Table 1.

TABLE 1.—COEFFICIENTS FOR TRE INDEX EQUATION

	a	b	c	d	e	f	g
Non-halogenated $H_T < 5.6$ MJ/scm	1.33	0.137	0	−0.196	0	−0.00011	1.66
Non-halogenated $H_T < 5.6$ MJ/scm	0.186	0.137	0	0.0103	0	0.0036	1.87
Halogenated	1.64	−2.60	0.190	0.0300	−0.536	0.0061	17.0

(d) Each owner or operator of an affected facility shall recalculate the TRE index value for that affected facility whenever changes are made in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of product recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change to the product recovery system. In any instance where the recalculated TRE index value is less than 1.0, the owner or operator shall conduct a performance test according to the methods and procedures required by § 60.664(a) in order to determine compliance with § 60.662(a).

(e) When an air-assisted flare is used to seek to comply with § 60.662(b), the maximum permitted velocity, V_{max}, shall be determined by the following equation:

$$V_{max} = 8.706 + 0.7084(H_T)$$

V_{max} = Maximum permitted velocity, m/sec.

8.706 = Constant

0.7084 = Constant

H_T = The net heating value as determined in paragraph (c)(4)

(f) Any owner or operator subject to the provisions of this subpart seeking to demonstrate compliance with § 60.660(d) may use Reference Method 2A or 2C, as appropriate, for determination of volumetric flowrate. [Section 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9)]

§ 60.665 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to § 60.662 shall notify the Administrator of the specific provisions of § 60.662 [§ 60.662 (a), (b), or (c)] with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial startup required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.662 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.664.

(b) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily-accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under § 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.662(a), a report containing performance test data need not be submitted, but a report containing the information in § 60.665(b)(2)(i) is required. The same data specified in this section shall be submitted in the reports of all subsequently required performance tests where either the emission control efficiency of a combustion device, outlet concentration of total organic compounds (minus methane and ethane), or the TRE index of a process vent stream from a product recovery system is determined.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.662(a) through use of an incinerator:

(i) The average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed), measured every 15 minutes and averaged over a 3-hour period, and

(ii) The vent stream flowrate at the incinerator inlet averaged over a 3-hour period, and

(iii) The percent reduction of total organic compounds (minus methane and ethane) achieved by the incinerator, or the concentration of total organic compounds (minus methane and ethane) (ppmv, by compound) at the outlet of the control device on a dry basis corrected to 3 percent oxygen.

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.662(a) through use of a boiler or process heater:

(i) A description of the location at which the vent stream is introduced into the boiler or process heater, and

(ii) The average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 MW (150 million Btu/hr) measured every 15 minutes and average over a 3-hour period.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.662(b)through use of a smokeless flare, flare design (i.e., steam-assisted, air-assisted or nonassisted), all visible emission readings, heat content determination, flowrate measurements, and exit velocity determinations made during the performance test, continuous records of the flare pilot light flame heat-sensing monitoring, and records of all periods of operations during which the pilot flame is absent.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.662(c):

(i) The specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Administrator), and

average temperature, measured every 15 minutes and averaged over a 3-hour period, of the absorbing liquid (both measured while the vent stream is normally routed and constituted), where an absorber is the final unit in a system, or

(ii) The average exit (product side) temperature measured every 15 minutes and averaged over a 3–hour period while the vent stream is normally routed and constituted, where a condenser is the final unit in a system, or

(iii) The total steam mass flow measured every 15 minutes and averaged over the period of the performance test (full carbon bed cycle), temperature of the carbon bed after regeneration [and within 15 minutes of completion of any cooling cycle(s)], and duration of the carbon bed steaming cycle where a carbon adsorder is the final unit in a system (all measured while the vent stream is normally routed and constituted), and

(iv) All measurements and calculations performed to determine the TRE index value of the process vent stream.

(c) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.663(a) (c) and (e), as well as up-to-date, readily-accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where a combustion device is used to comply with § 69.662(a), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) For thermal incinerators all 3-hour periods of operation during which the average combustion temperature was more than 28°C (50°F) below the average combustion temperature during the most recent performance test at which compliance with § 60.662(a) was determined.

(2) For catalytic incinerators, all 3-hour periods of operation during which the average temperature of the device immediately before the catalyst bed is more than 28°C (50°F) below the average temperature of the device during the most recent performance test at which compliance with § 60.612(a) was determined. The owner or operator also shall record all 3-hour periods of operation during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference of the device during the most recent performance test at which compliance with § 60.662(a) was determined.

(3) For all incinerators all 3-hour periods of operation during which the average vent stream flowrate at the combustion device inlet is less than 50 percent of or more than 120 percent of the average vent stream flowrate at the combustion device inlet during the most recent performance test at which compliance with § 60.662(a) was determined.

(4) All 3-hour periods of operation during which the average combustion temperature was more than 28°C (50°F) below the average combustion temperature during the most recent performance test at which compliance with § 60.662(a) was determined for boilers or process heaters with a design heat input capacity of less than 44 MW (150 million Btu/hour).

(d) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the flow measurements specified under §60.663(b)(2) and § 60.663(c), as well as up-to-date, readily accessible records of all periods when the vent stream is diverted from the control device or has no flowrate.

(e) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 MW or greater to comply with § 60.662(a) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records to steam use, fuel use, or monitoring data collected pursuant to other State or Federal regulatory requirements.)

(f) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the flare pilot light flame heat sensing monitoring specified under § 60.663(b), as well as up-to-date, readily accessible records of all periods of operations in which the pilot flame is absent.

(g) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.663 (d) and (e), as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where an owner or operator seeks to comply with §60.662(c), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) Where an absorber is the final unit in a system,

(i) All 3-hour periods of operations during which the average absorbing liquid temperature was more than 11°C (20°F) above the average absorbing liquid temperature during the most recent performance test, or

(ii) All 3-hour periods of operation during which the average absorbing liquid specific gravity was more than 0.1 unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Administrator, in which case he or she will define appropriate parameter boundaries and periods of operation during which they are exceeded).

(2) Where a condenser is the final unit in a system, all 3-hour periods of operation during which the average consenser operating temperature was more than 6°C (10°F) above the average operating temperature during the most recent performance test.

(3) Where a carbon adsorber is the final unit in a system,

(i) All carbon bed regeneration cycles during which the total mass steam flow was below the total mass steam flow during the most recent performance test, or

(ii) All carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration [and after completion of any cooling cycle(s)] was more than 10 percent greater than the carbon bed temperature (in degrees centigrade) during the most recent performance test.

(4) Where a carbon adsorber is the final unit in the recovery system and a total organic compound monitor approved by the Administrator is used, all 3-hour periods of operation during which the average concentration of total organic compounds (less methane and ethane) in the carbon adsorber gases is more than 50 parts per million by volume and more than 20 percent greater than the exhaust gas concentration measured by the monitoring system during the most recent performance test.

(5) Each owner or operator of an affected facility subject to the provisions of this subpart and seeking to demonstrate compliance with § 60.662(c)

shall keep up-to-date, readily accessible records of:

(i) Any changes in production capacity, feedstock type, or catalyst type, or of any replacement, removal or addition of product recovery equipment;

(ii) Any recalculation of the TRE index value performed pursuant to § 60.664(d);

(iii) The results of any performance test performed pursuant to the methods and procedures required by § 60.664(c).

(h) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the flowrate cutoff in § 60.660(d) shall keep up-to-date, readily accessible records to indicate that the maximum design vent stream flowrate is less than 0.008 m^3/min and of any change in process operation that increases the maximum design vent stream flowrate, including a measurement of the new vent stream flowrate.

(i) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the design production capacity provision in § 60.660(c) shall keep up-to-date, readily accessible records of any change in process operation that increases the design production capacity of the process unit in which the affected facility is located.

(j) Each owner and operator subject to the provisions of this subpart is exempt from §60.7(c) of the General Provisions.

(k) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.662 shall submit to the Administrator semiannual reports of the following recorded information. The initial report shall be submitted within six months after the initial start-up date.

(1) Exceedances of monitored parameters recorded under §§ 60.665 (c) and (g).

(2) All periods recorded under § 60.665(d) when the vent steam is diverted from the control device or has no flowrate.

(3) All periods recorded under § 60.665(e) when the boiler or process heater was not operating.

(4) All periods recorded under § 60.665(f) in which the pilot flame of the flare was absent.

(5) Any change in process operation that increases the maximum design vent stream flowrate, including a measurement of the new vent stream flowrate, as recorded under § 60.665(h).

(6) Any change in process operation that increases the design production capacity of the process unit in which the affected facility is located, as recorded under § 60.665(i).

(7) Any recalculation of the TRE index value, as recorded under § 60.665(g)(5).

(l) The requirements of § 60.665(k) remain in force until and unless EPA, in delegating enforcement autholrity to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.665(k), provided that they comply with the requirements established by the State.

(m) The Administrator will specify appropriate reporting and recordkeeping requirements where the owner or operator of an affected facility complies with the standards specified under § 60.662 other than as provided under § 60.663 (a), (b), (c) and (d).

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9))

§ 60.666 [Reserved]

§ 60.667 Chemicals affected by Subpart NNN.

Chemical	Common names
Acetaldehyde	—
Acetic acid	—
Acetic acid, anhydride	(1) Acetic anydride (2)Acetic oxide
Acetic acid, butly ester	n-Butly acetate
Acetic acid, Ethenyl ester	Vinyl acetate
Acetic acid, ethyl ester	Ethyl acetate
Acetic acid, magnesium salt	Magnesium acetate
Alcohols, C-11 or lower, mixtures.	—
Alcohols, C-12 or higher, mixtures.	—
2-Aminoethanol	(1) Ethanolamine
Benzenamine	(1) Aniline (2) Phenylamine
Benzene	Benzol
1,3-Benzenedicarboxylic acid	Isophathalic acid
1,4-Benzenedicarboxylic acid	Terephthalic acid
1,2-Benzenedicarboxylic acid bis (2-ethylhexyl) ester.	(1) Bis (2-ethylhexyl) phthalate (2) Dioctyl phthlate (3) Di (2-ethyl hexyl) phtalate
1,2-Benzenedicarboxylic acid butyl, phenylmethyl ester.	Butylbenzyl phthalate
1,2-Benzenedicarboxylic acid de-n-heptyl-n-nonyl undecyl ester.	Di-n-heptyl-n-nonyl undecylphthalate
1,2-Benzenedicarboxylic acid diisodecyl ester.	Di-isodecyl phthalate
1,2-Benzenedicarboxylic acid diisononyl ester.	Diisononyl phthalate
1,4-Benzenedicarboxylic acid dimethyl ester. (2) Dimethylterephthalate (3) DMT	(1) Terephthalic acid, dimethyl
Benzenesulfonic acid	—
Benzenesulfonic acid, mono-C_{10}-16-alkyl derivatives, sodium salts.	—
Benzoic acid, tech.	
1,1-Biphenyl	Diphenyl
2,2-Bis (hydroxymethyl)-1,3-propanediol.	Pentaerythritol
1,3-Butadiene	(1) Bivinyl (2) Divinyl
Butadiene and butene fractions.	—
Butanal	Butyraldehyde
Butane	n-Butane
Butanes, mixed	—
1,2 (and 1,3) Butanediol	Butylene glycol
1,4-Butanediol	—
Butanoic acid, anhydride	Butyric anhydride
1-Butanol	n-Butyl alcohol
2-Butanol	sec-Butyl alcohol
2-Butanone	Methyl ethyl ketone
2-Butenal	Crotonaldehyde β-Methylacrolien
1-Butene	α-Butylene
2-Butene	(1) β-Butylene (2) pseudo-Butylene
Butenes, mixed	Butylenes (mixed)
2-Butenoic acid	Crotonic acid
2-Butoxyethanol	Butyl Cellosolve [a]
2-Butyne-1,4-diol	—
Carbamic acid, monoammonium salt.	—
Carbon disulfide	—
Carbonic dichloride	Phosgene
Chlorobenzene	—
2-Chloro-1,3-butadiene	Chloroprene
Chloroathane	Ethyl chloride
Chloroethene	Vinyl chloride
6-Chloro-N-ethyl-N'-(1-methylethyl)-1,3,5-triazine-2,4-diamine.	(1) 2-Chloro-4-(ethylamino)-6-(isopropylamino)-s-triazine (2) Atrizine [a]
Chloromethane	Methyl chloride
(Chloromethyl) benzene	(1) Benzyl chloride (2) a-Chlorotoluene
(Chloromethyl) oxirane	Epichlorohydrin
1-Chloro-4-nitrobenzene	(1) p-Chloronitrobenzene (2) p-Nitrochlorobenzene
2-Chloro-1-propanol	(1) 2-Chloropropyl alcohol (2) Propylene chlorohydrin
3-Chloro-1-propene	(1) 3-Chloropropene (2) Allyl chloride
Coconut oil acids, sodium salt.	—
Cyclohexane	Hexahydrobenzene
Cyclohexane, oxidized	—
Cyclohexanol	(1) Hexalin (2) Hexahydrophenol
Cyclohexanone	Pimelic ketone
Cyclohexanone oxime	—
Cyclohexene	1,2,3,4-Tetrahydrobenzene
1,3-Cyclopentadiene	—
Cyclopropene	Trimethylene
1,2-Dibromoethane	(1) Ethylene dibromide (2) Ethylene bromide
Dibutanized aromatic concentrate.	—
1,4-Dichloro-2-butene	1,4-Dichlorobutene
3,4-Dichloro-1-butene	—
Dichlorodifluoromethane	Freon 12
Dichlorodimethylsilane	Dimethyldichlorosilane
1,2-Dichloroethane	(1) Ethylene chloride (2) Ethylene dichloride
1,1-Dichloroethene	Vinylidene chloride
Dichlorofluoromethane	Freon 21
Dichloromethane	Methylene chloride
1,3-Dichloro-2-propanol	a-Dichlorohydrin
Diethylbenzene	—
1,3-Diisocyanato-2-(and 4-)methylbenzene (80/20 mixture).	Toluene-2,4-(and 2,6)-diisocyanate (80/20 mixture)
Dimethylbenzenes (mixed)	Xylenes (mixed)
1,2-Dimethylbenzene	o-Xylene
1,3-Dimethylbenzene	m-Xylene
1,4-Dimethylbenzene	p-Xylene
1,1-Dimethylethyl hydroperoxide.	tert-Butyl hydroperoxide
2,6-Dimethylphenol	(1) m-Xylenol (2) 2,6 Xylenol
1-Dodecene	(1) Dodecene (2) Tetrapropylene
Dodecylbenzene, non linear	Alkylbenzene —
Dodecylbenzenesulfonic acid	—
Dodecylbenzenesulfonic acid, sodium salt.	—
1,2-Ethanediol	Ethylene glycol
2,2'-(1,2-Ethanediylbis (oxy)) bisethanol.	Triethylene glycol
Ethanol	Ethyl alcohol
Ethene	(1) Ethylene (2) Elayl (3) Olefiant gas
Ethenone	Ketene
Ethenylbenzene	Styrene
2-Ethoxyethanol	(1) Ethylene glycol monoethyl ether (2) Cellosolve
2-Ethoxyethyl acetate	(1) Ethylene glycol monathyl ether acetate (2) Cellosolve acetate [a]
Ethylbenzene	—
2-Ethylhexanal	—
2-Ethyl-1-hexanol	2-Ethylhexyl alcohol

Chemical	Common names
(2-Ethylhexyl) amine	—
Ethymethylbenzene	—
6-Ethyl-1,2,3,4-tetrahydro-9,10-anthracenedione.	—
Ethyne	(1) Acetylene (2) Ethine
Fatty acids, tall oil, sodium salt.	—
Formaldehyde	(1) Formalin (solution) (2) Methanal (gas)
2,5-Furandione	Maleic anhydride
D-Glucitol	Sorbitol
Heptane	n-Heptane
Heptenes (mixed)	—
Hexadecyl chloride	—
Hexahydro-2H-azepin-2-one	Caprolactam
Hexane	—
1,6-Hexanediamine	Hexamethylene diamine
1,6-Hexanediamine adipate	(1) Hexamethylene diamine adipate (2) Nylon salt
Hexanedinitrile	(1) Adiponitrile (2) 1,4-Dicyanobutane
Hexanedioic acid	Adipic acid
2-Hexenedinitrile	1,4-Dicyano-1-butene
3-Hexenedinitrile	(1) 1,4-Dicyanobutene (2) Dihydromuconontrile (3) 1,4-Dicyano-2-butene
Hydrocyanic acid	Hydrogen cyanide
3-Hydroxybutyraldehyde	Aldol Acetaldol
4-Hydroxy-4-methyl-2-pentanone.	Diacetone alcohol
2-Hydroxy-2-methylpropanenitrile.	(1) Acetone cyanohydrin (2) 2-Methyllactonitrile
2-Hydroxy-1,2,3,-propanetricarboxylic acid.	Citric acid
2,2'-Iminobisethanol	(1) Diethanolamine (2) 2,2'-Aminodiethanol
Iodo-methane	Methyl Iodide
1,3-Isobenzofurandione	Phthalic anhydride
Isodecanol	Isodecyl alcohol
Linear alcohols, ethoxylated, mixed.	—
Linear alcohols, ethoxylated and sulfated, sodium salt, mixed.	—
Linear alcohols, sulfated, sodium salt, mixed.	—
Methanamine	Methylamine
Methanol	(1) Methyl alcohol (2) Wood alcohol
2-Methoxyethanol	(1) Ethylene glycol monomethyl ether (2) Methyl Cellosolve®
Methylbenzene	Toluene
4-Methyl-1,3-benzenediamine	(1) Toluene-2,4-diamine (2) 2,4-Diaminotoluene (3) 2,4-Tolylenediamine
ar-Methylbenzenediamine	—
2-Methyl-1,3-butadiene	Isoprene
2-Methylbutane	Isopentane
2-Methyl-2-butene	Amylene
2-Methylbutenes, mixed	Amylenes, mixed
Methyl tert-butyl ether	MTBE
1-Methyl-2,4-dinitrobenzene (and 2-Methyl-1,3-dinitrobenzene).	2,4-(and 2,6)-dinitrotoluene
1-Methyl-2,4-dinitrobenzene	2,4-Dinitrotoluene
(1-Methylethyl) benzene	Cumene
4,4'-(1-Methylethylidene) bisphenol.	(1) 4,4'-Isopropylidenediphenol (2) Bisphenol A
6-Methyl-heptanol	(1) Isooctyl alcohol (2) Isooctanol
N-Methylmethanamine	Dimethylamine
Methyloxirane	Propylene oxide
2-Methylpentane	—
4-Methyl-2-pentanone	(1) Isopropyl acetone (2) Methyl isobutyl ketone
4-Methyl-3-penten-2-one	—
1-Methyl-1-phenylethyl hydroperoxide.	Cumene hydroperoxide
2-Methylpropanal	(1) Isobutyraldehyde (2) Isobutylaldehyde
2-Methylpropane	Isobutane
2-Methyl-1-propanol	Isobutyl alcohol
2-Methyl-2-propanol	(1) tert-Butyl alcohol (2) t-Butanol
2-Methyl-1-propene	(1) Isobutylene (2) 2-Methylpropene
2-Methyl-2-propenenitrile	Methacrylonitrile
2-Methyl-2-propenoic acid, methyl ester.	(1) Methacrylic acid methyl ester (2) Methyl methacrylate
1-Methyl-2-pyrrolidinone	1-Methyl-2-pyrrolidone
Naphthalene	(1) Naphthene (2) Naphthalin
2,2',2''-Nitrilotrisethanol	(1) Triethanolamine (2) Triethylolamine
Nitrobenzene	Nitrobenzol
1-Nonanol	(1) n-Nonanol (2) Nonyl alcohol
1-Nonene	Tripropylene
Nonylphenol	—
Nonylphenol, ethoxylated	—
Octene	—
Oil-soluble petroleum sulfonate, calcium salt.	—
Oil-soluble petroleum sulfonate, sodium salt.	—
Oxirane	Ethylene oxide
2,2'-Oxybisethanol	Diethylene glycol
Pentane	n-Pentane
3-Pentenenitrile	—
Pentenes, mixed	—
Phenol	(1) Carbolic acid (2) Hydroxybenzene
1-Phenylethyl hydroperoxide	—
Propanal	Propionaldehyde
Propane	Dimethyl methane
1,2-Propanediol	Propylene glycol
Propanenitrile	(1) Propionitrile (2) Ethyl cyanide
1,2,3-Propanitriol	(1) Glycerol (2) Glyceryl (3) Glycerin
Propanoic acid	Propionic acid
1-Propanol	Propyl alcohol
2-Propanol	Isopropyl alcohol
2-Propanone	(1) Acetone (2) Dimethyl ketone
1-Propene	Propylene
2-Propenenitrile	Acrylonitrile
2-Propenoic acid	Acrylic acid
2-Propenoic acid, butyl ester	Butyl acrylate
2-Propenoic acid, ethyl ester	Ethyl acrylate
Propylbenzene	Phenylpropane
Sodium cyanide	Cyanogran
Tallow acids, potassium salt	—
Tallow acids, sodium salt	—
1,3,5,7-Tetraazatricyclo (3.3.1.13.7)-decane.	(1) Hexamine (2) Hexamethylene tetramine
Tetrabromomethane	Carbontetrabromide
1,1,2,2-Tetrachloroethane	—
Tetrachloroethene	(1) Tetrachloroethylene (2) Perchloroethylene
Tetrachloromethane	Carbon tetrachloride
Tetraethylplumbane	Tetraethyl lead
Tetrahydrofuran	THF
Tetra (methyl-ethyl) plumbane.	Tetra (methyl-ethyl) lead
Tetramethylplumbane	Tetramethyl lead
1,3,5-Triazine-2,4,6-triamine	(1) Melamine (2) 2,4,6-Triamino-s-triazine
Tribromomethane	Bromoform
1,1,1-Tribromo-2-methyl-2-propanol.	(1) Tribromo-t-butyl alcohol (2) Actone-bromoform (3) Brometone
1,1,1-Trichloroethane	Methyl chloroform
1,1,2-Trichloroethane	Vinyl trichloride
Trichloroethane	Trichloroethylene
Trichlorofluoromethane	(1) Freon 11 (2) Fluorotrichloromethane
Trichloromethane	Chloroform
2,4,6-Trichloro-1,3,5-triazine	(1) Cyanuric chloride (2) 2,4,6-Trichloro-s-triazine
1,1,2-Trichloro-1,2,2-trifluoroethane.	(1) Trichlorotrifluoroethane (2) Fluorocarbon 113
2,6,6-Trimethylbicyclo (3.1.1) hept-2-ene.	a-Pinene
Urea	(1) Carbamide (2) Carbonyldiamide
Urea ammonium nitrate	—

[FR Doc. 83-34495 Filed 12-29-83; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 271

[SW-4-FRL 2497-5]

Hazardous Waste Management Program, Kentucky; Application for Interim Authorization, Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Kentucky application for Phase II, Component C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for January 31, 1984, at 7:00 p.m. (EST). EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by January 23, 1984. EPA will determine by January 25, 1984, whether there is significant interest to hold the public hearing. All written comments on the Kentucky interim authorization application must be received by the close of business on January 31, 1984.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on Kentucky's application for interim authorization on Tuesday, January 31, 1984, at 7:00 p.m., in the State Office Building Auditorium, Clinton and Holmes Streets, Frankfort, Kentucky 40601, Telephone: 502/564-6716.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the Kentucky application must be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. EPA, 345 Courtland Streeet, NE., Atlanta, Georgia 30365, 404/881-3016.

If you wish to find out whether or not EPA will hold a public hearing on the Kentucky application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after January 25, 1984, the EPA contact person listed below or telephone Mr. J. Alex Barber, Director, Division of Waste Management, Department for Environmental Protection, Fort Boone Plaza, Building

No. 2, 18 Reilly Road, Frankfort, Kentucky 40601, 502/564–6716.

Copies of the Kentucky interim authorization application for Phase II, Component C, are available during normal business hours at the following addresses for inspection and copying:

Kentucky Department for Environmental Protection, Fort Boone Plaza, Building No. 2, 18 Reilly Road, Frankfort, Kentucky 40601, Telephone: 502/564–6716

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881–4216

Environmental Protection Agency, Headquarters Library, 401 M Street, SW., Washington, D.C. 20460.

Written comments should be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881–3016.

The public hearing will be held at: State Office Building Auditorium, Clinton and Holmes Streets, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881–3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The Commonwealth of Kentucky received interim authorization for Phase I on April 1, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

The Commonwealth of Kentucky received interim authorization for Phase II, Components A and B, on January 28, 1983.

In the July 26, 1982 **Federal Register** (47 FR 32378) the Environmental Protection Agency announced that States with qualified programs can be authorized for Phase II interim authorization, Component C. Component C, published in the **Federal Register**, includes standards for permitting of land disposal facilities.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 271, Subpart B (48 FR 14249).

As noted in the May 19, 1980 **Federal Register**, copies of complete State submittals for interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal if significant public interest is expressed.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

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

List of Subjects in 40 CFR Part 271

Hazardous materials, Reporting requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Paul Traina,

Acting Regional Administrator.

[FR Doc. 83-34453 Filed 12-29-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 799

[OPTS-42051; TSH-FRL 2480-7]

Toxic Substances; Glycidol and Its Derivatives; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In October, 1978, the Interagency Testing Committee (ITC) designated the category "glycidol and its derivatives" for priority consideration for testing under TSCA section 4(a), and recommended testing for carcinogenic, mutagenci, teratogenic, and other adverse health effects. The ITC also recommended that epidemiological studies be conducted. EPA is publishing this Advance Notice of Proposed Rulemaking under section 4(a) of TSCA to (1) inform the public of the rationale EPA proposes to use in its selection of chemicals from this category for testing; (2) define the testing EPA is considering proposing; and (3) seek public comment on EPA's plan to propose a test rule for this category of chemical substances. This action constitutes EPA's response to the ITC for the category "glycidol and its derivatives."

DATE: Written comments should be submitted on or before February 28, 1984.

ADDRESS: Address written comments identified by the document control number (OPTS–42051) in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–108, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M St., SW., Washington, D.C. 20460. Toll Free: (800–424–9065), In Washington, D.C.: (544–1404), Outside the USA: (Operator–202–554–1404).

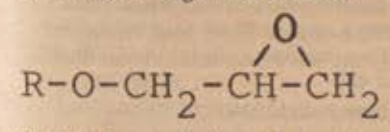
SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et*

seq.) authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures by manufacturers and processors in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. In order to make a section 4(a)(1)(A) finding, EPA must determine that the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, that insufficient data exist to characterize the potential effects of that chemical to human health or the environment and that testing is necessary to develop such data. In order to make a section 4(a)(1)(B) finding, EPA must determine that a substance is produced in substantial quantities and that there is or may be significant or substantial human exposure or substantial environmental release of that substance, that there are insufficient data to characterize the potential effects of that chemical to human health or the environment, and that testing is necessary to develop such data.

Section 4(e) of TSCA established the Interagency Testing Committee (ITC) to recommend to the Administrator of EPA those chemicals that should receive priority consideration for proposed test rules under section 4(a). The ITC transmitted its Third Report to the Administrator of EPA in October, 1978, as published in the **Federal Register** of October 30, 1978 (43 FR 50630). The ITC designated the category "glycidol and its derivatives" for priority testing consideration and recommended testing to evaluate their potential to cause adverse health effects. The glycidol category was defined by the ITC as all chemicals of the general formula:



where R is any alkyl, aryl, or acyl group. R is unrestricted as to the number and thper of substituents it may carry.

Chemicals in this category are used primarily as reactive diluents in epoxy resins, although the major use of glycidol itself is as a stabilizer in the production of vinyl polymers (Ref. 20).

In its report, the ITC recommended that this category be considered for testing for mutagenicity, carcinogenicity, teratogenicity, and other adverse health effects, with particular emphasis on the reproductive system. Epidemiological studies were also recommended. The category was not recommended for environmental effects testing or environmental fate studies.

II. Response of EPA to the ITC

EPA has reviewed the ITC's report, the data on which its recommendations were based, and information obtained from EPA's own information-gathering activities. The Agency agrees, in general, with the ITC's recommendation that members of the glycidol category be considered for health effects testing. Section 26(c) of TSCA authorizes EPA to regulate categories of chemical substances under any provision of TSCA if the chemicals in a given category are "similar in molecular structure, in physical, chemical, or biological properties * * *"

EPA has previously indicated that although it would generally initiate rulemaking for testing through publication of a proposed rule, it may initiate action on chemical categories and certain complex chemicals through publication of an Advance Notice of Proposed Rulemaking (ANPR). There are several reasons, both general to categories and specific to the glycidol category, why the Agency has chosen to use this approach to initiate rulemaking with respect to the ITC designation of glycidol and its derivatives.

The Agency has found that in developing rules for chemcial categories, the issues that require attention are considerably more complex and numerous than those in a rulemaking for a single chemical. These complex issues thus require considerable additional time to resolve.

For example, in order to avoid unnecessary or duplicative testing while assuring that adequate data are developed, the Agency needs to determine whether it is scientifically valid to test one or more representative chemicals rather than to test each individual chemical in a category. One method of achieving this goal is through the use of structure-activity relationships (SAR). The Agency believes that there is a logical basis for pursuing SAR along the lines proposed in this notice (i.e., subcategorization according to structure of the glycidol derivatives).

Identifying appropriate subcategories of glycidol derivaties is only part of the effort necessary for development of a proposed test rule for this category. In addition, EPA must review data related to exposure, release, hazard, testing costs, and economic impact for many chemicals. In the case of the glycidol category, EPA has identified 65 substances on the Public TSCA Inventory of Chemical Substances that fit within the category definition. Those substances on the Public TSCA Inventory are listed in Table 1. A few additional compounds in this category are on the Confidential TSCA Inventory.

TABLE 1.—GLYCIDOL DERIVATIVES LISTED ON PUBLIC TSCA INVENTORY

Chemical	CAS No.
Glycidol	556-52-5
GLYCIDYL ETHERS	
Resorcinol diglycidyl ether	101-90-6
Allyl glycidyl ether	106-92-3
Phenyl glycidyl ether	122-60-1
1,3-Bis [3-(2,3-epoxypropoxy) propyl] tetramethyldisiloxane	126-80-7
Methyl glycidyl ether	930-37-0
Bisphenol A diglycidyl ether	1675-54-3
o-Cresyl glycidyl ether	2210-79-9
Ethylene glycol diglycidyl ether	2224-15-9
Diglycidyl ether	2238-07-5
Hydroquinone diglycidyl ether	2425-01-6
1,4-Butanediol diglycidyl ether	2425-79-8
n-Butyl glycidyl ether	2426-08-6
2-Ethylhexyl glycidyl ether	2461-15-6
Lauryl glycidyl ether	2461-18-9
3-(Trimethoxysilyl)propyl glycidyl ether	2530-83-8
3-(Methyldiethoxysilyl)propyl glycidyl ether	2897-60-1
p-tert-Butylphenyl glycidyl ether	3101-60-8
2-Methylol-4,4'-isopropylidenediphenol diglycidyl ether	3188-83-8
Glycerol 1,3-diglycidyl ether	3568-29-4
Ethyl glycidyl ether	4016-11-9
Isopropyl glycidyl ether	4016-14-2
4-(Diglycidylamino)phenyl glycidyl ether	5026-74-4
p-Nitrophenyl glycidyl ether	5255-75-4
p-Nonylphenyl glycidyl ether	6178-32-1
1,1,2,2-Tetra(p-hydroxyphenyl)ethane tetraglycidyl ether	7328-97-4
3-[Bis(trimethylsiloxy)methyl]propyl glycidyl ether	7422-52-8
tert-Butyl glycidyl ether	7665-72-7
Glycerol triglycidyl ether	13236-02-7
2,6-Diglycidylphenyl glycidyl ether	13561-08-5
1,4-Bis[glycidoxy)methyl]cyclohexane	14228-73-0
Hexadecyl glycidyl ether	15965-99-8
n-Octadecyl glycidyl ether	16245-97-9
Neopentyl glycol diglycidyl ether	17557-23-2
3-(Dimethylethoxysilyl)propyl glycidyl ether	17963-04-1
2,4-Dibromophenyl glycidyl ether	20217-01-0
2,6-Dibromo-4-methylphenyl glycidyl ether	22421-59-6
Cresyl glycidyl ether (mixed isomers)	24447-14-3
3-(2-Glycidoxypropyl)-1-glycidyl-5,5-dimethylhydantoin	32568-89-1
1,2-Dibromopropyl glycidyl ether	35243-89-1
1,3-Bis(5,5-dimethyl-1-glycidylhydantoin-3-yl)-2-glycidyloxypropane	38304-52-8
Tetradecyl glycidyl ether	38054-75-5
Bisphenol F diglycidyl ether	54208-63-8
Oleyl glycidyl ether	60501-41-9
p-Cumylphenyl glycidyl ether	61578-04-9
2,2'-[[[2-(Oxiranylmethoxy)phenyl]methylene]bis-(4,1-phenyleneoxymethylene)]bis-(oxirane)	67786-03-2
Alkyl (C10–C16) glycidyl ether	68081-84-5
1,3-Dimethylbutyl glycidyl ether	68134-06-5
6-Methylheptyl glycidyl ether	68134-07-6
Tris(4-hydroxyphenyl)propane triglycidyl ether	68517-02-2
Alkyl (C8-C10) glycidyl ether	68609-96-1
Alkyl (C12–C14) glycidyl ether	68609-97-2
1,2,6-Hexanetriol triglycidyl ether	68959-23-9
Alkyl (C6–C12) glycidyl ether	68987-80-4
1,1,1,3,5,7,7,7-Octamethyl-3,5-bis(6,7-epoxy-4-oxaheptyl)tetrasiloxane	69155-42-6
2,2-Bis[p-(2-glycidyloxy-3-butoxypropyloxy)-phenyl]propane	71033-08-4
3-[(3-Chloropropyl)dimethoxysilyl]propyl glycidyl ether	71808-64-5
2,2'-[(1-Methylethylidene)bis[4,1-phenyleneoxy-3,1-propanediyloxy-4,1-phenylene(1-methylethylidene)-4,1-phenyleneoxymethylene]]bis(oxirane)	72319-24-5
2,4-Dibromo-6-methylphenyl glycidyl ether	75150-13-9
GLYCIDYL ESTERS	
Glycidyl acrylate	106-90-1
Glycidyl methacrylate	106-91-2
Diglycidyl ester of hexahydrophthalic acid	5493-45-8
Diglycidyl ester of phthalic acid	7195-45-1

TABLE 1.—GLYCIDOL DERIVATIVES LISTED ON PUBLIC TSCA INVENTORY—Continued

Chemical	CAS No.
Glycidyl ester of neodecanoic acid	26761-45-5
1,2,3-Phopanetriyl ester of 12-(oxiranylmethoxyl-9-octadecenoic acid	74396-71-3

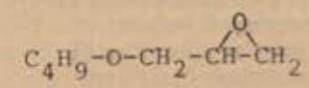
As part of EPA's data-gathering efforts on various substances, including glycidol and its derivatives, the Agency promulgated two rules. The first, published in the **Federal Register** of June 22, 1982 (47 FR 26992), required, pursuant to section 8(a) of TSCA, that manufacturers of specified chemicals supply the Agency with certain production data and other information relating to potential exposure and release of the substances in question. The second rule, published September 2, 1982 (47 FR 38780), required, pursuant to section 8(d) of TSCA, that manufacturers of the specified chemicals supply the Agency with all unpublished health and safety studies in their possession relating to the chemicals. Publication of the section 8(d) rule has resulted in the submission to EPA of a large number of studies in the period October 4, 1982, to the present. In addition, in June, 1983, an industry trade group, the Epoxy Resins Panel of the Chemical Manufacturers Association (CMA), submitted to EPA its tentative recommendations for the subcategorization of the glycidol derivatives (Ref. 2). CMA's suggested approach, as well as much of the recently submitted health and safety data, are undergoing Agency review.

In addition to the conceptual difficulties EPA has in directly preparing a proposed rule on a category of this size and complexity, EPA believes there are positive advantages in using an ANPR to initiate the process of rulemaking for testing this category of chemicals. Publication of this notice provides an opportunity for public comment on the difficult issues involved in the use of subcategories based on chemical structure before the Agency expends its resources on developing a proposed test rule for glycidol and its derivatives. Due to the complexity of the issues involved, development of a proposed test rule prior to receiving such input may result in needless expenditure of Agency resources and considerable delay in rule promulgation due to the potential volume of public comments on the proposed rule. For these reasons EPA has chosen to initiate rulemaking by issuing an ANPR in response to the ITC designation of the category "glycidol and its derivatives."

III. General Information

A. Chemical Description

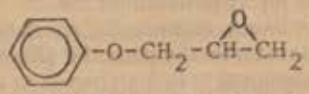
As described in Unit I, the members of this category include glycidol and its derivatives. The term "derivatives" should not be interpreted in the production sense. That is, these derivatives (glycidyl ethers and glycidyl esters) are generally produced using epichlorohydrin and not glycidol itself (see Unit III.B). The structure of glycidol, or 2,3-epoxy-1-propanol (CAS No. 556-52-5), is given below:



glycidol

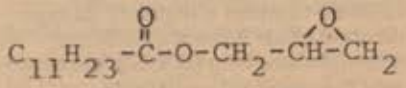
Replacing the hydroxyl hydrogen with either an alkyl or aryl group yields a glycidyl ether. Two common glycidyl ethers are n-butyl glycidyl ether (CAS No. 2426-08-6) and phenyl glycidyl ether (CAS No. 122-60-1):

n-butyl glycidyl ether



phenyl glycidyl ether

Replacing the hydroxyl hydrogen with an acyl group results in a glycidyl ester. An example of this type of compound is glycidyl laurate (CAS No. 1984-77-6):



glycidyl laurate

Note that all glycidol derivatives have, by definition, at least one epoxide group. Epoxide compounds in general are known for their strong alkylating ability, and it is this property of glycidol derivatives that makes them particularly useful as reactive diluents in two-part epoxy resins.

B. Manufacturing Processes

The following descriptions of the manufacturing processes for glycidol and its derivatives are taken from two EPA contractor reports (Refs. 20 and 40). The first step in the production of glycidol itself involves the hydrolysis of epichlorohydrin to chloroglycerin; the latter compound is then reacted with sodium methylate to form glycidol. Glycidyl ethers are commercially synthesized in closed systems by the addition of the appropriate alcohol to epichlorohydrin in the presence of a catalyst. Glycidyl esters are commercially producted by reacting sodium salts of carboxylic acids with epichlorohydrin.

C. Production and Use

Over 10 million pounds of glycidyl compounds are produced or imported annually, with glycidyl ethers accounting for most of this amount (Ref. 24).

Glycidol is used primarily as a stabilizer during the production of certain vinyl polymers. To a lesser extent, it is also used as a raw material for (1) a pharmaceutical intermediate, (2) a constituent in a solid propulsion system, (3) an oil additive, (4) a synthetic hydraulic fluid, and (5) a dyestuff. Glycidol is also used in some epoxy resins.

Glycidyl ethers are used almost exclusively as reactive diluents in epoxy resin systems. These resins in turn are used in a wide variety of situations requiring strong adhesives or coatings. Glycidyl esters are used for the same purposes as the glycidyl ethers, although to a much lesser degree.

D. Potential for Adverse Health Effects

EPA has reviewed much of the literature on the health effects of glycidol and its derivatives (Ref. 19), and it is still reviewing unpublished health and safety studies submitted under TSCA section 8(d) as well as other studies published recently in the scientific literature. Some conclusions, based on EPA's review to date, are given below:

1. Glycidol and some glycidyl ethers and esters appear to be skin irritants and skin sensitizers (Refs. 14, 22, 28, 29, 37, and 42).

2. There is evidence indicating that direct application of some glycidyl ethers to the eyes of laboratory animals causes corneal opacity (Ref. 30). This effect has also been observed in laboratory animals following exposure to the vapors of some glycidyl ethers (Refs. 14 and 25).

3. Some glycidyl ethers have been shown to cause atrophy of lymphoid tissue, as well as changes in blood-forming elements such as polymorphonuclear cells, other types of leukocytes, and myeloid/erythroid ratios in laboratory animals (Ref. 23).

4. One study suggests that triethyleneglycol diglycidyl ether (CAS No. 1954-28-5) may cause nerve damage in dogs (Ref. 1).

5. Glycidol itself appears to cause temporary sterility in rats (Refs. 4, 13, and 18), and some glycidyl ethers may produce testicular atrophy in several laboratory animals (Refs. 15, 27 and 35).

6. Several studies indicate that glycidol and some glycidyl ethers and esters are mutagenic in various test systems (Refs. 5, 6, 10, 17, 21, 27, 31, 32, and 36). This effect may be due to the high degree of chemical reactivity of the epoxide group common to all glycidyl compounds.

7. The limited information available on the oncogenic potential of these chemicals suggests that some of them elicit and oncogenic response in laboratory animals (Refs. 7, 16, and 34), while others may not (Refs. 12, 34, 38, 39, and 41).

E. Potential for Exposure

EPA has reviewed the available information relating to the potential for human exposure to glycidol and its derivatives (Ref. 20). Some of the Agency's preliminary conclusions on the potential for exposure to glycidol and its derivatives are as follows:

1. Because the primary use of glycidol itself, as a stabilizer in the manufacture of vinyl polymers, involves closed reaction vessels, worker exposure to this compound is expected to be low. EPA does note, however, that the use of "closed" systems may result in some exposure, with the potential for higher level, intermittent exposures existing during spills, leaks, or maintenance operations.

2. Glycidyl ethers and esters are more widely used in open systems, and worker exposure, both inhalation and dermal, is more likely to occur at higher levels for these compounds than for glycidol itself.

3. There is a potential for both consumer and commercial exposure to the glycidyl ethers and esters because these compounds, particularly the ethers, appear to be widely used in two-part epoxy resin adhesives.

Preliminary estimates of potential exposure ranges resulting from the consumer and commercial use of epoxy resins containing glycidyl ethers have been generated using the limited, available exposure data and newly developed mathematical models (see Table 2).

TABLE 2.—ESTIMATED HUMAN EXPOSURE TO GLYCIDYL ETHERS

Use	Exposure (mg/year/individual)	
	Inhalation	Dermal
Consumer	7.1 to 71	104 to 1,040
Commercial	1.4×10^{5} to 1.4×10^{6}	1.5×10^{5} to 1.5×10^{6}

Source: Ref. 40.

The extent of consumer and commercial exposure of glycidyl esters is unclear. Exposure to these compounds is expected to be considerably lower than that for glycidyl ethers (Ref. 40). The Agency is interested in receiving additional information and comment on this issue.

Recent estimates suggest that about three million people in the United States may be exposed to glycidyl ethers through the combined consumer and commercial use of epoxy resins (Ref. 40). In an earlier document (Ref. 26), the National Institute for Occupational Safety and Health (NIOSH) estimated that approximately 118,000 workers in the United States were potentially exposed to glycidyl ethers, and that an additional one million workers may be exposed to epoxy resins. NIOSH recommended 15-minute airborne "ceiling concentration limits" for several glycidyl ethers (see Table 3) based on the results of

TABLE 3.—NIOSH-RECOMMENDED 15-MINUTE EXPOSURE LIMITS FOR GLYCIDYL ETHERS

Chemical	NIOSH Recommendation (ppm)
Isopropyl glycidyl ether	50
Allyl Glycidyl ether	9.6
n-Butyl glycidyl ether	4.4
Phenyl glycidyl ether	1
Di(2,3-epoxypropyl) ether	0.2

Source: Ref. 26.

studies with laboratory animals and reported dermal effects in humans. These limits were intended to protect workers from skin irritation and sensitization, as well as other systemic effects. On the basis of its initial review, EPA has determined that exposure data for glycidol and its derivatives are insufficient for the Agency to evaluate the risk potential for human health effects of these compounds. The Agency is thus considering requiring, as part of a test rule for these compounds, the development of such data through monitoring and other exposure studies.

IV. Tentative EPA Decisions and Issues

A. Development of Rulemaking

After reviewing the ITC report and public comments pertaining to it, and after reviewing more recent published and unpublished studies, EPA believes there is reason to proceed with development of a proposed rule for the testing of glycidol and its derivatives. A bibliography of all published and unpublished studies received by the Agency to date is available for review as part of the Public Record (see Unit VII). The Agency, in publishing this ANPR, wishes to receive early comment on its tentative basis for requiring testing and on the use and composition of the subcategories described herein.

B. Preliminary Findings

At this time, the Agency believes that the category of glycidol and its derivatives may meet the criteria for a finding under section 4(a)(1)(A)(i): That "the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment." This belief is based on the evidence of the potential for adverse health effects summarized in Units III.D and III.E.

The Agency also believes that this category of compounds may meet the criteria for a finding under section 4(a)(1)(B)(i): "a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture." Because many glycidol derivatives are present in common consumer products (i.e., epoxy resins), EPA believes there is a potential for substantial exposure of humans (see Unit III.E above).

Further, the Agency currently believes that the available data are inadequate to reasonably determine or predict the adverse health effects of glycidol and its derivatives, and that testing may be necessary to develop such data.

C. Use of Subcategories

The EPA's analysis of a structurally-based chemical category for testing consideration is intended to allow the simultaneous consideration of several chemicals with structural or other similarities. Development of a test rule in such circumstances can be facilitated through the use of structure-activity Relationships whereby the biological effects of one compound can be inferred from data on one or more compounds of similar chemical structure.

Two methods for the selection of test candidates that EPA considers realistic are as follows: (1) require testing of only those compounds that are currently

produced in significant quantities and/or those compounds posing the greatest potential for human exposure; or (2) divide this large category of chemicals into smaller groups (subcategories) of chemicals, select representative chemicals from each subcategory to undergo testing (taking into account production and exposure factors to the extent possible), and extrapolate the test results obtained on these chemicals to other chemicals in the group. A similar approach has been proposed for other chemical categories such as the fluoroalkenes (46 FR 53704, October 30, 1980) and phenylenediamines (47 FR 973, January 8, 1982).

EPA considered both options carefully, and the Agency's major reasons for taking the second approach with glycidol and its derivatives are discussed below.

1. *Economic impact.* Although EPA has not completed its assessment of the economic impact of testing chemicals in this category, it appears, from the Agency's preliminary analysis, that the industry cannot financially support the full range of ITC-recommended tests on each glycidol derivative (Ref. 24). While adverse economic effects per se do not preclude the issuance of a test rule, economic impact is an important consideration during test rule development. Consequently, the Agency is seeking to utilize a method that will establish testing requirements for a reasonable number of compounds, and that will enable the test results to be used to reasonably predict the toxic effects of this chemical category.

2. *Nature of the epoxy resins industry.* EPA's preliminary analysis of the epoxy resins industry suggests that substitution of one glycidyl compound for another in a given product is not uncommon. Consequently, a compound that is currently produced in large quantities may be produced in only small quantities in the near future. Likewise, compounds that are not currently produced in large amounts may be produced in much greater quantities in the future because of changes in market demand. Thus, testing only those compounds currently produced in large quantities, without considering how their toxicity relates to that of other category members, may not be the most reliable approach to defining testing requirements with the ultimate goal of protecting human health.

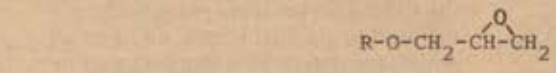
3. *Size and diversity of the category.* The category of glycidol derivatives under consideration for a test rule contains over 60 chemicals listed on the TSCA Inventory. These chemicals vary considerably in structure and molecular size, from the small methyl ether of glycidol (molecular weight=88) to the very large tetra(p-hydroxyphenyl)ethane tetraglycidyl ether (molecular weight=598). It is logical to assume that significant differences among the chemical structures of these compounds are likely to result in significant differences among their physical and chemical properties, pharmacokinetic parameters (e.g., dermal penetration, metabolism), and toxicities. Separation of this large category into several subcategories based on chemical structure will facilitate the Agency's selection of chemicals to be tested and allow appropriate inferences to be drawn from the test results for subsequent regulatory actions.

4. *Future regulation of glycidol derivatives.* Section 26(c) of TSCA authorizes EPA to regulate chemical categories (see Unit II). Addressing the testing needs for glycidol derivatives using well defined subcategories will facilitate any future Agency action on chemicals that belong, on the basis of structure, in any of these subcategories.

D. Definition of Subcategories

EPA has tentatively decided to organize the derivatives of glycidol under consideration for a test rule into seven subcategories, with glycidol itself addressed separately. The Agency's proposed subcategories are listed in Table 4.

Table 4--Subcategories of Glycidol Derivatives.



Subcategory	Description of R
I	Small (less than eight carbons) alkyl group with no epoxide moiety.
II	Large (eight carbons or more) alkyl group with no epoxide moiety.
III	Alkyl group with at least one silicon atom and no epoxide moiety.
IV	Aryl group with no epoxide moiety.
V	Alkyl group with at least one epoxide moiety.
VI	Aryl group with at least one epoxide moiety.
VII	Acyl group.

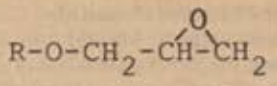
E. Selection of Chemicals for Testing

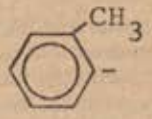
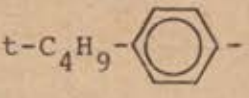
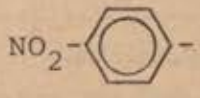
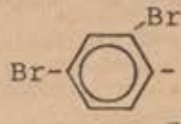
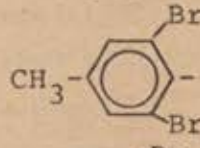
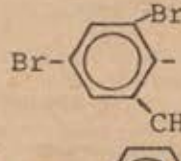
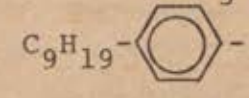
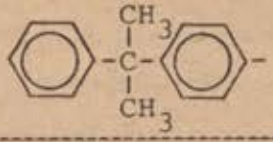
As the foregoing discussion explains, the Agency has tentatively decided to select one or more of the chemicals in each subcategory for testing. Although selection of the test chemicals has yet to be completed, it is clear that several factors enter into the selection process. These factors include (1) the extent and quality of completed studies, (2) testing programs that are in progress and those to be initiated in the immediate future, (3) the applicability of SAR for reasonably predicting the particular health effects in question, (4) estimates of current and, if possible, future exposure patterns for the chemicals comprising a subcategory, and (5) the economic impact on the regulated industry.

EPA is in the process of completing its review of the available data on glycidol and its numerous derivations. The following discussion of some of the health effects data for chemicals in Subcategory IV is presented as an example of how the Agency might apply the above factors in its selection of test chemicals for any subcategory of glycidol derivatives. Commenters are requested to utilize this type of conceptual approach in commenting on the composition and testing needs of the seven subcategories.

Subcategory IV consists of glycidyl ethers where the R group is an aryl group with or without substituents but having no epoxide moiety. Chemicals on the Public TSCA Inventory that fall into this subcategory are listed in Table 5.

Table 5--Subcategory IV Derivatives of Glycidol.



Chemical Name	CAS No.	Structure of R
Phenyl glycidyl ether	122-60-1	
o-Cresyl glycidyl ether	2210-79-9	
Cresyl glycidyl ether (mixed isomers)	26447-14-3	
p-tert-Butylphenyl glycidyl	3101-60-8	
p-Nitrophenyl glycidyl ether	5255-75-4	
2,4-Dibromophenyl glycidyl ether	20217-01-0	
2,6-Dibromo-4-methylphenyl glycidyl ether	22421-59-6	
2,4-Dibromo-6-methylphenyl glycidyl ether	7550-13-9	
p-Nonylphenyl glycidyl ether	6178-32-1	
p-Cumylphenyl glycidyl ether	61578-94-9	

1. *Mutagenicity.* The Agency is reviewing the available data on the mutagenic potential of chemicals in Subcategory IV. The interim results of this review indicate that at least five of these substances may induce gene mutations; these five are phenyl, o-cresyl, mixed cresyl, p-tert-butylphenyl, and p-nitrophenyl glycidyl ethers. Because the mutagenicity data base for the five glycidyl ethers consists primarily of *in vitro* bacterial assays, the chemicals' gene mutational potential cannot be adequately characterized. Gene mutation data are unavailable for the other compounds in this subcategory.

In considering the need for additional mutagenicity data, the Agency has several alternative methods through which it can develop a suitable testing scheme. For example, the Agency may conclude the phenyl glycidyl ether is an appropriate representative for the entire subcategory. If such is the case, the Agency may require further testing, in insect and/or mammalian species, for only that chemical, subsequently using the results to estimate the gene mutation potential of the remaining chemicals.

On the other hand, the Agency may conclude that, from a SAR viewpoint, another chemical in this subcategory is at least as appropriate a representative as phenyl glycidyl ether. In determining which chemical or chemicals should be tested, the Agency may decide that it is most relevant to test the chemical(s) that is (are) produced in the greatest quantity and/or pose(s) the greatest potential for human exposure.

Another approach the Agency may adopt involves tiered testing of these compounds. For example, the Agency may initially require that all chemicals not previously tested in bacterial systems undergo such testing. Positive test results for any chemical in this system would then lead to the conducting of higher tier mutagenicity testing (e.g., induction of heritable gene mutations in *Drosophila melanogaster* for that chemical. At that stage, the Agency may be able to identify one or more representative chemicals for which further testing, in mammalian species, would be required.

A similar tiered approach, involving such tests as cytogenetic, dominant lethal, and heritable translocation assays, may be adopted to determine the potential of chemicals within a subcategory to induce chromosomal aberrations.

2. *Oncogenicity.* Phenyl glycidyl ether is the only chemical listed in Table 5 for which an oncogenicity study has been conducted. A preliminary review of this study indicates that phenyl glycidyl ether, administered via inhalation (12 ppm, the air saturation level), induces nasal tumors in rats under the conditions of the bioassay.

Upon review of all relevant data (i.e., metabolism, dermal absorption, etc.) for the assessment of oncogenic potentials of the chemicals in this subcategory, the Agency may conclude that the oncogenicity test data for phenyl glycidyl ether can be used to estimate the oncogenic potential of other chemicals in this subcategory. In such a case, the Agency may have to determine whether additional test data (e.g., pharmacokinetics) for phenyl glycidyl ether and other subcategory members are needed to estimate the health risks from the available oncogenicity data.

On the other hand, the Agency may conclude that it is more relevant to conduct an oncogenicity study on another chemical(s) in this subcategory. For example, the Agency may choose to require testing on the most potent mutagen (determined from the required mutagenicity tests) or on the chemical posing the greatest likelihood of human exposure.

3. *Teratogenicity.* The Agency is aware of only one teratology study on a member of this subcategory, that study having been conducted with phenyl glycidyl ether. EPA's preliminary analysis indicates the test was negative. If it is determined that substantial production and human exposure occur for these chemicals, EPA would likely require further teratogenicity testing for this subcategory, unless it could be reasonably predicted from currently available data that a teratogenicity hazard was unlikely.

The Agency believes there is considerable evidence suggesting the epoxide moiety of glycidyl derivatives is the active portion of the molecule with regard to mutagenic and perhaps oncogenic and other effects (Refs. 8, 9, 11, 33, and 41). It is not yet clear whether a similar structure-activity relationship exists with regard to the teratogenic potential of these compounds. Consequently, if another study (e.g., in a second species) is required for this subcategory, the Agency may conclude that the most appropriate test substance is that which currently poses the greatest likelihood of human exposure.

4. *Other chronic effects.* EPA's preliminary review suggests that phenyl glycidyl ether also causes adverse effects on the liver, lung, kidney, blood, and reproductive system of laboratory animals. As in the case of teratogenicity, however, it is unclear whether the epoxide moiety is the active portion of the molecule with regard to these chronic effects. Thus, the Agency's criteria for selecting test chemicals for any future studies of this type may have less of a SAR basis than the criteria used for mutagenicity or oncogenicity tests.

5. *Skin and eye effects.* EPA's preliminary review indicates that phenyl glycidyl ether is a skin irritant, and sensitizer, as well as a potential eye irritant, in humans. Because the Agency has data suggesting these effects may be due to the presence of the epoxide moiety, the selection process determining the appropriate test chemical(s) for this subcategory would likely involve an SAR approach.

V. Specific Issues and Questions

Two of the major purposes of this ANPR are to solicit comments on the Agency's tentative plan for requiring testing under section 4 of TSCA, and to solicit additional data from industry and the general public to be used in developing a test rule for glycidol and its derivatives. The specific issues presented here are divided into three groups: (1) the use of subcategories, (2) additional hazard and exposure data, and (3) additional market information.

A. Use of Subcategories

1. The Agency solicits comments on the application of the general approach of subcategorization to the category "glycidol and its derivatives."

2. The Agency solicits comments on the specific composition of subcategories of glycidol derivatives as described in this notice (see Table 4).

3. The Agency solicits comments on its approach, as outlined in this ANPR, to selecting representative chemicals for future testing under section 4 of TSCA. For example, under what circumstances would a single chemical be a suitable representative of an entire subcategory?

4. If the Agency ultimately adopts the subcategory approach described in this ANPR, will the data subsequently obtained be adequate for supporting regulatory action for all category members? If not, is there any other approach the Agency might adopt other than requiring extensive testing of each category member?

5. If the Agency adopts the subcategory approach, it is likely that the selection of chemicals for testing will be partly based, in some instances, on estimates of current exposure potential. Under these circumstances, should the Agency consider follow-up activities such as reporting of significant new uses under section 5 of TSCA?

B. Additional Hazard and Exposure Data

EPA's search of the published literature and the responses to the Agency's reporting rule under section 8(d) of TSCA indicate that a considerable amount of research on glycidol and its derivatives has been conducted recently. The Agency hereby solicits the submission of any exposure (monitoring, environmental release, etc.) or health effects data on these chemicals in the possession of the general public. Manufacturers and processors of glycidol and its derivatives are already under a legal obligation to supply health and safety studies relating to glycidol and its derivatives pursuant to TSCA section 8(d). The Agency solicits

comments on the feasibility of requiring, as part of a test rule, the development of exposure data.

As noted above in Unit I, the ITC recommended this chemical category for epidemiological studies. The Agency solicits comments on the need for such studies, and on the feasibility of identifying a suitable cohort for such studies.

C. Additional Market Information

A considerable amount of production information was submitted to EPA in response to the Agency's requirement for such data reporting under section 8(a) of TSCA. To accurately assess the economic impact of future testing, additional market information is needed. The Agency solicits comments on the following questions:

1. What are the sales value and list price for each chemical in this category?

2. What are the specific end-uses for each chemical, and how have these uses changed during the last five years?

3. What are the key market factors determining the uses of each chemical? For example, does competition take place through price, performance, availability, or other factors?

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(30) Reichhold Chemicals, Inc. 1978c. Allergenicity of epoxy-reactive diluents in the guinea pig (including butyl glycidyl ether and cresyl glycidyl ether). Eye irritation (due to several compounds, including three glycidyl ethers). Submission under section 8(d) of TSCA. U.S. Environmental Protection Agency (8DHQ–0878–0007).

(31) Shell Oil Company. 1978. Skin irritation and toxicity of a series of experimental epoxy compounds (including some glycidol derivatives). Submission under section 8(d) of TSCA. U.S. Environmental Protection Agency 8DHQ–0978–0019).

(32) Shell Oil Company. 1979. Series of toxicity studies. Submission under section 8(d) of TSCA. U.S. Environmental Protection Agency (8EHQ–2079–0213).

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(36) Thiokol Corporation. 1979. Series of toxicity studies. Submission under section 8(e) of TSCA. U.S. Environmental Protection Agency (8EHQ–0179–0270).

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(38) Van Duuren BL, Orris L, Nelson N. 1965. Carcinogenicity of epoxides, lactones, and peroxy compounds. Part II. *J. Nat. Cancer Inst.* 35:(4)707–717.

(39) Van Duuren BL, Langseth L, Goldschmidt BM, Orris L. 1967. Carcinogenicity of epoxides, lactones, and peroxy compounds. VI. Structure and carcinogenic activity. *J. Nat. Cancer Inst.* 39(6):1217–1226.

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(41) Weil CS, Condra N, Naun C, Striegel JA. 1963. Experimental carcinogenicity and acute toxicity of representative epoxides. *Am. Ind. Hyg. Assoc. J.* 24(4):305–325.

(42) Zschunke E, Behrbohm P. 1965. Eczema due to phenoxypropenoxide and similar glycide ethers. *Dermatol. Wochenschr.* 19:480–484.

VII. Public Record

EPA has established a public record for this ANPR [docket number OPTS–42051]. This record includes the following:

(1) **Federal Register** Notice designating the category glycidol and its derivatives to the priority list.

(2) Letters.

(3) Contact reports of telephone conversations and meeting summaries.

(4) Published and unpublished data.

This record, containing the basic information considered by the Agency in developing the ANPR is available for inspection in the Office of Pesticides and Toxic Substances (OPTS) reading room from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in Room E–107, 401 M St., SW, Washington, D.C. 20460. The Agency will supplement the record with additional information as it becomes available.

VIII. Development of Rulemaking

The Agency wishes to receive scientific discussion on all aspects on the use of SAR for this particular category. It will reconsider its position if data and logic indicate that the decision to test using subcategories based on structure-activity relationships is refuted by existing data.

The Agency will analyze all comments on categorization, SAR, exposure, production, and use of available data received from this ANPR. The Agency will also consider any ongoing or planned health effects testing brought to EPA's attention. Protocols should be submitted for all such testing to allow adequate Agency review and evaluation. Except for information claimed as Confidential Business Information (CBI) all of the above will be included in the public record and will form the basis of the Notice of Proposed Rulemaking or of the Decision Not to Test. Any information claimed as CBI will be considered by the Agency in its decisionmaking but will not be released to the public except in accordance with Agency procedures as prescribed in 40 CFR Part 704.

(Sec. 4, Pub. L. 94–469 90 Stat. 2003; 15 U.S.C. 2601)

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83–34496 Filed 12–29–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 83–1146; FCC 83–83–477]

Elimination of the Separate Frequency Allocation Structure in the Public Land Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Rules are being proposed to eliminate the separate allocation structure in the Public Land Mobile Services. This will permit all carriers to apply for frequencies which are currently allocated to wireline and radio common carriers in § 22.501 of the Rules, 47 CFR Part 22. The separate allocation structure is no longer necessary because there is competition between wireline and radio common carriers providing these services. As a result of the revisions to § 22.501, revisions of rules for the Rural Radio Service are being proposed also.

DATES: Comments must be received by January 19, 1984. Reply comments must be received by February 21, 1984.

ADDRESS: Secretary's Office, Room 222, FCC, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Carmen A.C. Borkowski, (202) 632–6450.

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service, Radio common carriers, Rural radio service.

Notice of Proposed Rulemaking

In re elimination of the separate frequency allocation structure in the Public Land Mobile Service (Rules § 22.501);

Adopted: October 19, 1983.

Released: December 12, 1983.

By the Commission: Commissioner Quello absent.

Introduction

1. The Commission hereby proposes to amend Part 22 of the Commission's rules to eliminate the separate frequency allocation structure presently set forth in § 22.501 (b), (c), (h), (i), and (j) (47 U.S.C. 22.501), governing the Public Land Mobile Service (PLMS).[1] Under our present rules, frequencies in the 150 MHz and 450 MHz bands are allocated separately for use by wireline and nonwireline carriers. This separate allocation is commonly referred to as a "fence" between wireline and nonwireline frequencies. In CC Docket No. 80–57, we had proposed a limited waiver to this separate allocation scheme. *See Notice of Proposed Rulemaking (NPRM),* 47 FR 43842, 43876 (1982) ["§ 22.501(n) Waiver of frequency allocation"]. In the *NPRM* we stated that a full reexamination of the separate allocation was beyond the scope of that proceeding and requested comments only on the waiver policy which would permit nonwireline and wireline carriers to request a waiver to file applications for the other block of frequencies. The comments filed by the public on the proposed waiver policy were extensive and divided between those supporting and those opposing such a waiver. After reviewing these comments, we have concluded that the central issue behind the waiver policy is the separate allocation itself. Therefore, we have decided that, rather than adopt the waiver proposal, we should initiate a separate proceeding to eliminate the fence.[2]

Background

2. The separate allocation was first implemented in 1949, in the *General Mobile Radio Service* proceeding, *Report and Order,* 13 FCC 1190, *recon. denied,* 13 FCC 1242 (1949). In the *Report and Order* the Commission stated, 13 FCC at 1218:

> The Commission has, in the disposition of this docket and the related proceedings, made provision for * * * the development of competitive communications common carrier systems * * *. [W]e have taken particular care to provide a family of frequencies within which the development of common carrier mobile radio systems by enterprises other than existing telephone companies may take place. These dispositions have been effected advisedly, and with the purpose among others, of fostering the development of

[1] Section 22.501(j) is being combined into 22.501(i) in the companion Report and Order in CC Docket 80–57. The separate allocation structure also appears in § 22.601(a), regarding the Rural Radio Service, which is operated on a secondary basis on certain specified Public Land Mobile Service frequencies.

[2] In the *Report and Order* in CC Docket No. 80–57, FCC 83– , which we are adopting today, we set forth the procedures for acting on applications filed for the frequencies pending completion of this proceeding. *See* Report and Order at paras. 199 and 200.

competing systems, technologies, and equipments.

3. Thereafter, the Commission again underscored its commitment to fostering wireline-nonwireline competition in the public mobile radio service in 1963 in *ITT Mobile Telephone, Inc.*:[3]

> Our stated purpose of fostering the development of competing systems, techniques and equipment has, in the light of experience since 1949, proved to be salutory and no justification has been made for reversal of the basic policy determination originally made at that time.

4. In 1967 the Commission proposed in Docket No. 16778 to make additional frequencies available under the separate allocation structure. *Allocation of Frequencies in 150.8–162 Mc/s Band*, 9 FCC 2d 659 (1967).[4] In proposing to make these "guardband frequencies" available, the Commission further discussed the "fence" allocation. In that Notice, the Commission sought comment on "What effect, if any, would such assignment have on the ability of nonwireline carriers to compete with wireline carriers in the provision of one-way service?" *Id.* at 664.

5. In the *Report and order*[5] making these guardband frequencies available, the Commission repeated its concern for the ability of nonwireline carriers to compete effectively with the wireline carriers and imposed several requirements:

(a) In order to ensure that all technological advances should be made equally available to the nonwireline and/or wireline carriers, all telephone companies are required to make available, upon request, dial access interconnection to the nonwireline carriers in any community where such a method of operation is being used by wireline carriers.

(b) Any wireline carrier is required to fix its charges to RCC's for wireline facilities on the identical basis which the wireline carrier uses to compute its own costs in connection with any one-way signaling service it offers.

(c) If a wireline carrier offers free toll service in connection with paging service, the carrier must make available the same toll free facilities to the RCC free of charge so that the RCC may also supply the same toll free service.

(d) Nonwireline carriers may, under section 309(d)(1) of the Communications Act, petition the Commission to deny a wireline paging application if the RCC believes that only one such service is viable and that the wireline carrier could obtain a competitively advantageous headstart in the market involved. *Id.* at 846–851.

6. In 1968, in its denial of reconsideration of the guardband allocation, the Commission noted that competition was growing between telephone companies and the other carriers:

> Eleven of the top 40 cities are now being served by telephone companies and 36 of the top 40 are being served by MCC's (also known as RCC's). The telephone companies and the MCC's compete in 13 of these cities—11 with Bell Systems and two with independent telephone companies. Of the 170 one-way signaling stations authorized nationwide, 25 are Bell operations; nine independents; and 136 MCC's.[6]

7. The Commission's guardband allocation was upheld on appeal in *Radio Relay Corporation v. F.C.C.*, 409 F.2d 322 (1969). Since then other decisions have had an impact on wireline-nonwireline competition. For instance, in *Bonduel Telephone Co.*, 68 FCC 2d 497 (1978), we permitted wireline companies to apply for wireline paging frequencies in any market, without regard to where they are doing business as a wireline. We have also allocated frequencies without following the separate allocation structure. For instance, in the *900 MHz Proceeding, First Report and Order*, 89 FCC 2d 1337 (1982), we stated, at para. 22:

> "In the past, the allocation scheme for paging frequencies, other than in the 150 MHz band for common carrier paging frequencies, has not included separate, exclusive allocations. The separate allocations scheme adopted in 1949 for the 150 MHz paging frequiencies and the two-way frequencies was originally intended to foster the development of competing systems, techniques and equipment. It now appears, however, that while such goals remain valid and desirable, this regulatory constraint is no longer necessary for achieving our goals in a mature Domestic Public Land Mobile Radio Service industry. We conclude that a single allocation approach, in combination with the availability of a relatively large number of paging frequencies, our proposed assignment policies and our loading standards, will more likely allow for a market-driven development of competing service offerings than will a rigid, separate allocation scheme (footnotes omitted)."

We thus adopted an allocation plan that provides for one block of 900 MHz frequencies to be made available to both wireline carriers and RCC's on an equal basis. The 35–43 MHz paging frequencies even from the beginning were not fenced. *One-way Signaling in the 35 MHz and 43 MHz bands, Report and Order*, 77 FCC 2d 384 (1981).[7]

Tentative Findings

8. Wireline-nonwireline competition has developed within the context of the policies discussed above. The Commission's licensing records as of May 1983, show the following usage on the fenced frequencies.[8]

Frequencies by rule section	Wireline stations		Nonwireline stations	
	Pending	Authorized	Pending	Authorized
22.501(b) (150 MHz band)	98	3,001		
22.501(c) (150 MHz band)			551	4,167
22.501(b) (450 MHz band)	29	565		
22.501(c) (450 MHz band)			566	2,960
22.501(h)(1) (guardband freqs.)	251	768		
22.501(h)(2) (guardband freqs.)			290	1,883
Total	378	4,334	1,407	9,010
Total wireline stations authorized or requested				4,712
Total nonwireline stations authorized or requested				10,417

9. The above figures clearly show that the RCCs are no longer a fledgling industry in need of regulatory safeguards whose purpose is to foster competition. Robust competition is now a reality between RCCs and wireline carriers. Nonwireline companies have far more authorizations and applications pending than do their wireline counterparts. Moreover, in a significant number of markets the nonwireline frequencies are completely used, whereas some wireline frequencies remain unused. The chart below surveys the number of channels authorized on the separately allocated frequencies in 25 markets.[9]

[3] 1 RR 2d 957, 963.

[4] Under the Commission's proposal, the frequencies 152.84 and 158.10 MHz were allocated to wireline common carriers. The frequencies 152.24 and 158.70 MHz were allocated to nonwireline common carriers.

[5] 12 FCC 2d 841 (1968).

[6] 14 FCC 2d 269, 271 (1968).

[7] In the Cellular Service we adopted a separate allocation but limited it to a two year duration. The separate allocation was adopted because the Commission found that the fence constituted the most practical, and quite possibly the only, way to achieve the Commission's twin goals of making quality mobile telephone service available to the public as rapidly as possible while promoting competition whenever feasible. We also determined not to apply the *Bonduel* policy *supra*, to cellular carriers; thus wireline companies can only apply for authority for cellular service in the same general area in which they operate as a landline carrier. *See* 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 571 (1982), appeal dismissed sub nom. U.S. v. FCC, Cir. No. 82-1526 (D.C. Cir., March 3, 1983).

[8] Figures derived from the Commission's staff study of frequency usage.

[9] This table is based on a staff study compiled as of May 1982, and includes the fence frequencies listed in §§ 22.501 (b) and (c).

[10] See companion item *Report and Order* at paras. 193–200.

SURVEY OF TWO-WAY CHANNEL UTILIZATION IN 25 MARKETS

	Number of channels licensed or pending		Percent of available channels assigned	
	Non-wireline	Wireline	Non-wireline	Wireline
NY City & Northeastern, NJ	21	23	100	100
Los Angeles, CA	21	23	100	100
Chicago & Northwestern, IN	21	23	100	100
St. Louis, MO	19	21	90	91
Milwaukee, WI	21	15	100	65
Houston, TX	21	21	100	91
Seattle, WA	21	23	100	100
Miami, FL	21	23	100	100
Denver, CO	21	23	100	100
San Antonio, TX	21	15	100	65
San Jose, CA	20	23	95	100
Phoenix, AZ	21	23	100	100
Springfield, MA	21	11	100	48
Oklahoma City, OK	21	22	100	96
San Bernardino, CA	20	15	95	65
Salt Lake City, UT	21	10	100	43
Syracuse, NY	15	11	71	48
Tampa, FL	21	23	100	100
New Haven, CT	21	16	100	70
Mobile, AL	17	9	81	37
Albuquerque, NM	16	6	76	26
Spokane, WA	20	6	95	26
Canton, OH	21	12	100	52
Charlotte, NC	21	16	100	70
Shreveport, LA	16	13	16	57
Average number of channels	[1]20.0	[2]17.0	95	74

[1] Out of 21.
[2] Out of 23.

10. The above figures demonstrate a significant difference in the level of usage on the two sides of the fence, with a near-saturation level of use by nonwirelines. It is reasonable to infer that, if the fence were removed, nonwireline carriers in a saturated market would apply for, and serve the public on, the unused wireline frequencies.[10]

11. The separate allocation assisted the RCCs in competing with the WCCs, at a time when there were few if any common carrier mobile systems other than existing telephone companies. Our analysis of the market demonstrates that the separate allocation we first imposed in 1949 has served its purpose well. Today the RCCs have a strong presence in the DPLMRS industry. They are firmly established businesses with significant market shares and they compete effectively with wireline companies. There are evolving technologies in the mobile services. The market for mobile service is competitive, encourages innovation, provides efficient service and permits users to make decisions according to price and quality of service. Therefore, the artificial constraint we imposed beginning in 1949 appears to have outlived its usefulness. Today, it only serves to reserve, in markets where there is 100% channel utilization by the RCCs, a block of frequencies for the WCCs, detering the RCCs from competing for these frequencies. Accordingly, we tentatively conclude that retention of the fence in today's marketplace is not in the public interest and is prejudicial to the RCCs by limiting their ability to expand their systems. In addition, it insulates the WCCs from competition, and we see no valid reasons for this. The removal of this market constraint will serve the public interest by permitting additional competition, creating more service to the public and possibly reducing the cost for customers.[11]

12. It was argued in the comments in CC Docket 80–57, *supra*, that today the circumstances are reversed and some wirelines may now need this protection because there are some RCCs that are stronger and have more resources available than their wireline counterparts. The wireline companies have also argued that the wireline block of frequencies in some markets are unused because it was not until recently that the WCCs were able to apply for frequencies in markets other than their franchised areas, *Bonduel, supra*. We reject those arguments. It was the WCCs' business decision not to apply for these frequencies. The *Bonduel* case was decided 7 years ago and the WCCs still have not utilized the frequencies as heavily as the RCCs. Moreover, the purpose of the rule was to spawn RCC competition. Having served this limited purpose by generating a healthy level of market activity, the rule no longer has a place in the current environment, and we foresee clear public benefits from its elimination.[12]

13. *Rural Radio Service.* In proposing to eliminate the separate allocation structure, we are mindful of the possible impact that this change in allocation might have on the Rural Radio Service. The Rural Radio Service presently uses on a secondary basis, the same frequencies as does not the PLMS. In this service the frequencies are intended primarily for use in rendering public message service between Rural Subscriber and Central Office stations and to provide radio trunking facilities between central officies. Central office and interoffice station frequencies are allocated only to wireline carriers. RCC's are permitted to use subscriber station facilities which operate through the RCC base station, where the use of wirelines is not practicable or feasible (where the establishment of central office stations facilities is shown to be impracticable) and upon a showing that it will not degrade the mobile communication service rendered by the base station. Rural subscriber stations are normally authorized to communicate with and through the central office station with which they are associated. To the extent that RCCs, for example, are assigned wireline frequencies on which Rural Radio Service is currently being offered, mobile service congestion on the channel could degrade or jeopardize the quality of the Rural Radio Service. Additionally, we do not wish, in eliminating the fence, to preclude the possibility of responding to future needs for Rural Radio Service. Because of these concerns, we propose that existing Rural Radio systems be grandfathered to operated on a primary basis rather than secondary as the rules now provide. In so doing we treat rural radio on an equal footing with the land mobile service and guarantee that rural subscribers in areas with increasing mobile service usage will not be deprived of service.[13] Future applications for Rural Radio systems will be granted to operate only on a secondary, non-interference basis. To encourage RCCs to serve rural subscribers, Section 22.601 would be amended, to permit RCCs to construct and operate central office stations. In addition, in order to protect the future needs of the public for rural radio service, we propose to require those RCCs who utilize prior wireline frequencies to provide rural radio service where requested in addition to any other service they may provide. Our proposed changes should alleviate concerns that Rural Radio service will be "bumped" by elimination of the fence.

14. From an administrative standpoint, the change involves more detailed filings from Rural Radio applicants. We would require these applicants to submit a frequency search of all co-channel stations within the radius specified in

[10] See companion item *Report and Order* at paras. 193–200.

[11] Id. at para. 107 where we decided not to include the guardband paging channels in § 22.40 of the rules until we determine whether to abolish the fence.

[12] While it is likely that most two-way service will be provided on cellular systems in the future, it is quite possible that conventional two way service will continue to meet the needs of some groups of users. Furthermore, new technologies, such as digital voice transmission and single-sideband, may be developed using the conventional frequencies to complement or provide alternatives to cellular service. Accordingly, we believe that elimination of the fence may well foster innovation in conventional two-way systems.

[13] The secondary basis status requires that rural radio service be offered on an interference free basis to stations in the PLMS. Thus, if a primary station is located close to a secondary station and harmful interference occurs as a result; the secondary basis station could be ordered for example, to cease operations.

§ 22.15(b) from the proposed base/central office/subscriber/interoffice/relay station, including information concerning height above average terrain and effective radiated power. *See* §§ 22.15(b), 22.115, 22.505 and 22.506. Additionally, applicants would be required to submit an interference-free showing for the proposed station. *See* § 22.15. We would also require that Rural Radio stations comply with antenna height-power limits found in Part 22 of the Rules. We invite general comments on this proposal and also request suggestions on the technical details of how the proposal should be implemented. *See* Appendix A.[14]

15. Interested parties are invited to file written comments on their views concerning the elimination of the separate frequency allocation and the proposed rules concerning the Rural Radio Service.

16. Comments should be submitted in accordance with Rule § 1.419, 47 CFR 1.419. Comments should be submitted by January 19, 1984. Reply comments by February 21, 1984. For purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

[14] The proposed rules in Appendix A follow the rules in the companion item, Report and Order in CC-Docket 80-57, Revision and Update of the PMS rules, Part 22.

Regulatory Flexibility Act—Initial Analysis

17. *Reasons for Action and Objective.* The rules are being proposed to eliminate unnecessary regulation and policies and to provide service to the public in the most efficient, expeditious manner possible.

18. *Legal Basis.* The authority for this rulemaking is contained in sections 4 and 303 of the Communications Act of 1934, as amended.

19. *Small Entities Affected and Potential Impact.* The impact of the proposed rule will be on all Public Mobile Service applicants and licensees and on members of the public receiving mobile service. Existing and potential applicants for this service range in size from single individuals and small partnerships to large multi-million dollar corporations. Small entities will not be economically adversely affected by these rules. We believe the rules will probably benefit small entities by giving them the opportunity to apply for frequencies which have not been available to them in the past.

20. *Relevant Federal Rules Which Overlap, Duplicate or Conflict With This Action.* None.

21. *Reporting, Record-keeping and Compliance Requirements.* The rulemaking does not involve any additional reporting requirements other than those associated with the Public Mobile Service.

22. *Alternatives That Would Lessen Impact.* None.

23. It is ordered that a copy of this order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 22—[AMENDED]

47 CFR Part 22 is amended as follows:

1. Section 22.501 is amended by removing paragraph (i)(2) and revising paragraphs (b), (c), (h), and (i) to read as follows:

§ 22.501 Frequencies.

* * * * *

(b) For assignment to common carriers for two-way public land mobile service.

Base station frequencies (MHz)	Mobile dispatch, and auxiliary test station frequencies (MHz)
152.03	158.49
152.06	158.52
152.09	158.55
152.12	158.58
152.15	158.61
152.18	158.64
152.21	158.67
152.51	157.77*
152.54	157.80*
152.57	157.83*
152.60	157.86*
152.63	157.89*
152.66	157.92*
152.69	157.95*
152.72	157.98*
152.75	158.01*
152.78	158.04*
152.81	158.07*
454.025	459.025
454.050	459.050
454.075	459.075
454.100	459.100
454.125	459.125
454.150	459.150
454.175	459.175
454.200	459.200
454.225	459.225
454.250	459.250
454.275	459.275
454.300	459.300
454.325	459.325
454.350	459.350
454.375	459.375*
454.400	459.400*
454.425	459.425*
454.450	459.450*
454.475	459.475*
454.500	459.500*
454.525	459.525*
454.550	459.550*
454.575	459.575*
454.600	459.600*
454.625	459.625*
454.650	459.650*

(c) All applicants who apply for frequencies listed in (b) with an asterisk must provide rural radio service when requested in addition to any other service that they will provide.

* * * * *

(h) *150 MHz band (paging).* The following frequencies may be used exclusively in providing paging.

152.24 MHz

152.84 MHz

158.10 MHz

158.70 MHz

(i) *450 MHz band (control, repeater).* (1) The frequencies in this paragraph may be assigned for use for control or repeater stations. Series operation of more than one control or repeater station is not permitted.

Control station frequencies MHz	Repeater station frequencies (MHz)
454.025	459.025
454.050	459.050
454.075	459.075
454.100	459.100
454.125	459.125
454.150	459.150
454.175	459.175
454.200	459.200
454.225	459.225
454.250	459.250
454.275	459.275
454.300	459.300
454.325	459.325
454.350	459.350
454.375	459.375
454.400	459.400
454.425	459.425
454.450	459.450
454.475	459.475
454.500	459.500
454.525	459.525
454.550	459.550
454.575	459.575
454.600	459.600
454.625	459.625
454.650	459.650

(2) [Reserved]

* * * * *

2. Section 22.601 is amended by revising paragraphs (a) and (b) to read as follows:

§ 22.601 Frequencies.

(a) *General.* The following frequencies are available on a secondary basis in the rural radio service, provided no harmful interference is caused to stations in the Public Land Mobile Service.

(b) *Frequencies.*

Central office and interoffice station* frequencies (MHz)	Rural subscriber and interoffice station frequencies (MHz)
152.03	158.49
152.06	158.52
152.09	158.55
152.12	158.58
152.15	158.61
152.18	158.64
152.21	158.67
152.51	157.77
152.54	157.80
152.57	157.83
152.60	157.86
152.63	157.89
152.66	157.92
152.69	157.95
152.72	157.98
152.75	158.01
152.78	158.04
152.81	158.07
454.025	459.025
454.050	459.050
454.075	459.075
454.100	459.100
454.125	459.125
454.150	459.150
454.175	459.175
454.200	459.200
454.225	459.225
454.250	459.250
454.275	459.275
454.300	459.300
454.325	459.325
454.350	459.350
454.375	459.375
454.400	459.400
454.425	459.425
454.450	459.450
454.475	459.475
454.500	459.500
454.525	459.525
454.550	459.550
454.575	459.575
454.600	459.600
454.625	459.625
454.650	459.650

* Interoffice stations can only be applied for by carriers who are in the business of providing landline local exchange telephone service.

Note 1.—Rural stations licensed as of the effective date of the adoption of final rules in this proceeding will be allowed to provide rural radio service on a primary basis (grandfathered).

(1) *Relay Stations.* The frequencies in paragraph (b) in this section may be assigned to relay stations upon a showing why it is impracticable to achieve the required communications without relay stations.

* * * * *

3. Section 22.609 is revised to read as follows:

§ 22. 609 Supplementary showing required with applications for central office stations and rural subscriber stations.

(a) Each application in this service shall be accompanied by a showing why it is impracticable to provide the required communication serivce by means of wireline facilities.

(b) Additionally where it is proposed to provide rural subscriber service through a base station, a showing should be made that the proposed rural subscriber service will not adversely affect the availability or adequacy of service to mobile subscribers.

(c) Each application must also provide:

(1) The showings required by § 22.15(b), co-channel interference study and an interference study demonstrating that the proposed facility will not cause harmful electrical interference to those co-channel facilities identified in § 22.15(b);

(2) Height above average terrain. *See* § 22.115.

(3) Effective radiated power. *See* § 22.505 and § 22.506.

[FR Doc. 83-34591 Filed 12-23-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 252
Friday, December 30, 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

Office of the Secretary

Meat Import Limitations; First Quarterly Estimate

Public Law 88-482, enacted August 22, 1964, as amended by Pub. L. 96-177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1964 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

In accordance with the requirements of the Act, I have made the following estimates:

1. The estimated aggregate quantity of meat articles prescribed by subsection 2(c) as adjusted by subsection 2(d) of the Act for calendar year 1984 is 1,117 million pounds.

2. The first quarterly estimate of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1984 is 1,190 million pounds.

Done at Washington, D.C. this 23rd day of December, 1983.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 83-34558 Filed 12-28-83; 8:45 am]
BILLING CODE 3410-01-M

Forms Under Review by Office of Management and budget

December 23, 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 anticiapte 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.

New

- Animal and Plant Health Inspection Service

Brucellosis Information System
On Occasion
State or Local Government: 11,270,850 responses; 45,083 hours; not applicable under 3504(h)
Dr. W. Ray (301) 436-8713

- Farmers Home Administration

7 CFR 1804-D, Planning and Performing Site Development Work
FmHA 424-20
On Occasion
State of Local Government, Small Businesses, Non-Profit Institutions: 4,500 responses; 17,244 hours; not applicable under 3504(h)
Jim Weibel (202) 382-1485

Revised

- Animal and Plant Health Inspection Service

U.S. Origin Health Certificate
VS17-140, 140A, 17-50
On Occasion
Farms: 30,040 responses; 15,040 hours; not applicable under 3504(h)
Dr. Najam Faizi (301) 436-8383

- Food and Nutrition Service

Distribution of Surplus Commodities
SF-269, SF-270
On Occasion, Monthly, Quarterly, Annually
Individuals or Households, State or Local Governments, Businesses or other For-Profit, Non-Profit Institutions: 4,886 responses; 707,637 hours; not applicable under 3504(h)
Virginia Hicks (703) 756-3660

- Agricultural Marketing Service

Reporting and Recordkeeping Requirements under 7 CFR Part 29
On Occasion
Individuals, Businesses; 11,969 responses; 854 hours; not applicable under 3504(h)
Lionel Edwards (202) 447-2567

- Animal and Plant Health Inspection Service

7 CFR 319, 321, 352, Foreign Quarantine Notice
PPQ 368, 533, 546, 564, 587
On Occasion
Individuals or Households, State of Local Governments, Farms, Businesses, Non-Profit Institutions: 134,050 responses; 30,448 hours; not applicable under 3504(h)
L. M. Sedgwick, Jr. (301) 436-8584

- Agricultural Stabilization and Conservation Service

Part 1430 Dairy Products
ASCS 142, 143, 146, 147, 148, CCC 150
On Occasion, Quarterly

Farms, Individuals or Households: 1,950,000 responses; 550,000 hours; not applicable under 3504(h)
Clarence Domire (202) 447–7673

Extension (Burden Change)

• Rural Electrification Administration
Final Inventory—Telephone Construction Contract (Labor and Materials)
REA 724, 724a, 724b
On Occasion
Small Businesses: 170 responses; 1,275 hours; not applicable under 3504(h)
John Soma (202) 382–8529

• Rural Electrification Administration
Final Inventory—Telephone Force Account Construction—REA Telephone Borrowers
REA 817, 817a, 817b
On Occasion
Small Businesses: 45 responses; 153 hours; not applicable under 3504(h)
John Soma (202) 382–8529

Reinstatement

• Farmers Home Administration
7 CFR 1942–I, Resources Conservation and Development (RCD) Loans and Watershed (WS) Loans and Watershed Advances
On Occasion
State or Local Government, Non-Profit Institutions: 110 responses; 230 hours; not applicable under 3504(h)
Harry Puffenberger (202) 382–9736

• Rural Electrification Administration
Financial and Statistical Report for REA Telephone Borrowers
REA 479
Annually
Small Businesses: 1,000 responses; 10,000 hours; not applicable under 3504(h)
John Rose (202) 382–8532

• Farmers Home Administration
Farm FmHA 456–1, Application For Settlement of Indebtedness
FmHA 456–1
On Occasion
Individuals or Households, Farms, Businesses, Non-Profit Institutions: 3,000 responses; 1,500 hours; not applicable under 3504(h)
Tom Baden (202) 475–4008

Susan B. Hess,

Acting Department Clearance Officer.

[FR Doc. 83-34815 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

[Docket No. 83-351]

Trifly Eradication Environmental Impact Statement

AGENCY: Animal and Plant health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice of the intent of the Plant Protection and Quarantine (PPQ), Animal and Plant Health Inspection Service (APHIS), USDA, to prepare an environmental impact statement (EIS) on proposals to eradicate the Mediterranean fruit fly, the Oriental fruit fly and the Melon fly (hereinafter know as "Trifly") in Hawaii. The Trifly EIS will discuss the potential environmental impacts of eradicating the Trifly in Hawaii. This document also provides notice of public meetings to provide opportunity for public involvement in the scoping process as the first step in the development of the Trifly EIS.

To provide opportunity for participation in the development of the Trifly EIS, comments are invited from all interested members of the public, from State and local agencies which administer plant pest control regulatory programs or are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any national program issue or environmental impact that should be discussed in the Trifly EIS.

DATES: Written comments concerning the development of the Trifly EIS must be recived on or before February 28, 1984. Public meetings concerning issues affecting the development of the Trifly EIS will be held on January 17 and 18, 1984, in Honolulu, Hawaii.

ADDRESSES: Written comments concerning issues affecting the development of the Trifly EIS should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Edward J. Stubbs, Senior Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, Hyattsville, MD 20782, 301–436–8295. Copies of the "Task I Report" concerning the Trifly are available from this address.

Public Meetings

Public meetings will be held on January 17 and 18, 1984, in the Plumeria Conference Room, Ala Moana Americana Hotel, 410 Atkinson Drive, Honolulu, Hawaii 96814. Comments will be taken concerning any issues that should be discussed in the Trifly EIS. A representative of PPQ, APHIS, will attend the meeting. Any interested person may appear and be heard in person, by attorney, or by other representative.

The meetings will begin at 9 a.m. and are scheduled to end at 5 p.m. local time. However, the meetings may be terminated at any time after they begin if all of those persons desiring an opportunity to speak have been heard. Persons who wish to speak are requested to register with the presiding officer prior to the meetings. The prehearing registration will be conducted at the location of the meetings from 8:30 a.m. to 9 a.m. Those registered persons will be heard in the order of their registration. Any other person who wishes to speak at the meetings will be afforded such opportunity after the registered persons have been heard.

If the number of preregistered persons and other participants in attendance at the meetings warrant it, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

SUPPLEMENTARY INFORMATION:

Background

Three species of exotic fruit flies have become established in the State of Hawaii. These flies, referred to collectively as "Trifly", are the Mediterranean fruit fly, (*Ceratitis capitata*) Wiedemann, the Oriental fruit fly (*Dacus dorsalis*) Hendel, and the Melon fly (*Dacus cucurbitae*) Coquillett. The presence of "Trifly" populations in the Hawaiian Islands has prevented the full commercial development of fruit and vegetable production for domestic and foreign markets. Further, the presence of these exotic fruit flies in the Hawaiian Islands presents a continuing and constant threat of introduction into the mainland host crop areas of the United States through artificial spread. The Medfly has previously been found in California, Florida, and Texas host crops, and extensive and expensive programs were undertaken to eradicate the Medfly before it became established in those areas or before it could be artificially spread interstate.

As a result of past crop losses in the Hawaiian Islands and because there is an ever present risk that the Trifly will be artificially spread to the mainland, PPQ is considering undertaking a joint

Federal/State "Trifly" eradication program in the Hawaiian Islands. Due to the complexity of eradicating Trifly already well established in the Hawaiian Islands, and due to the delicate and unique ecosystems of the Hawaiian Islands, PPQ has determined that a Trifly eradication program in the Hawaiian Islands could have a significant impact on the environment. Therefore, PPQ has determined that an EIS on such eradication program should be prepared in accordance with section 102 of the National Environmental Policy Act (42 U.S.C. 4321).

The potential environmental impact of a Trifly eradication program will be discussed in the Trifly EIS. The initial step in the process of developing the Trifly EIS is the scoping process. The scoping process is used for determining the scope of issues to be addressed and for identifying the significant issues related to a Trifly eradication program.

The opportunity for public involvement in the scoping process will be provided in the public meetings to be held on January 17 and 18, 1984. In order to facilitate discussion at these meetings some eradication alternatives have been developed. The explanation of these eradication alternatives is discussed in a report, captioned, The "Task 1 Report". Copies of this report are available upon request. (See "FOR FURTHER INFORMATION CONTACT"). The public is encouraged to comment on these or other eradication proposals, or on any other issue that should be considered in the Trifly EIS.

The second step in the Trifly EIS process will be the development of a draft Trifly EIS. A "notice of availability" will be published in the Federal Register when the draft Trifly EIS has been prepared and is available for distribution.

Done at Washington, D.C., this 28th day of December 1983.

H. L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-34765 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Nezperce National Forest Grazing Advisory Board; Meeting

The Nezperce National Forest Grazing Advisory Board will meet at 10:00 a.m., February 2, 1984, at Hoots Cafe near White Bird, Idaho, Forest Supervisor Tom Kovalicky announced today.

The purpose of the meeting is to discuss range betterment funds and review allotment management plans.

The meeting is open to the public. Comments and discussion from the public may be introduced after agenda items have been covered.

Dated: December 22, 1983.

Tom Kovalicky,

Forest Supervisor.

[FR Doc. 83-34604 Filed 12-29-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-301-004]

Carbon Steel Wire Rod From Argentina; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether carbon steel wire rod from Argentina is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products are materially injuring, or are threatening to materially injure, a United States industry. Also, critical circumstances have been alleged under section 733(e) of the Tariff Act of 1930, as amended (the Act). If this investigation proceeds normally, the ITC will make its preliminary determination on or before January 9, 1984, and we will make ours on or before May 1, 1984.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Julia Hathcox, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-0184.

SUPPLEMENTARY INFORMATION:

The Petition

On November 23, 1983, we received petitions in proper form from counsel for Atlantic Steel Company, Continental Steel Co., Georgetown Steel Corp., North Star Steel Co.—Texas, and Raritan River Steel Company, filed on behalf of the domestic producers of carbon steel wire rod. In compliance with the filing requirements of section 353.36, the petition alleges that imports of the subject merchandise from Argentina 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 of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value is supported by comparisons of factory netback United States prices with the foreign market value as represented by evidence of an offer for sale in the home market.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain carbon steel products, and we have found that they meet the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether carbon steel wire rod from Argentina is being, or is likely to be, sold in the United States at less than fair value and whether critical circumstances exist. If our investigation proceeds normally, we will make our preliminary determination by May 1, 1984.

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod. Carbon steel wire rod is classified under item number 607.17 of the Tariff Schedules of the United States which covers wire rods of iron or steel; other than alloy iron or steel; not tempered, not-treated and not partly manufactured; valued over 4 cents per pound.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by January 9, 1984, whether there is a reasonable indication that imports of carbon steel wire rod from Argentina are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 13, 1983.

[FR Doc. 83-34642 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-301-004]

Carbon Steel Wire Rod From Mexico; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether carbon steel wire rod from Mexico is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are materially injuring, or are threatening to materially injure, a United States industry. Also, critical circumstances have been alleged under section 733(e) of the Tariff Act of 1930, as amended (the Act). If the investigation proceeds normally, the ITC will make its preliminary determination on or before January 9, 1984, and we will make ours on or before May 1, 1984.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Julia Hathcox, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377-0184.

SUPPLEMENTARY INFORMATION:

The Petition

On November 23, 1983, we received a petition in proper form from counsel for Atlantic Steel Company, Continental Steel Co., Georgetown Steel Corp., North Star Steel Co.—Texas, and Raritan River Steel Company, filed on behalf of the domestic producers of carbon steel wire rod. In compliance with the filing requirements of section 353.36 of the Commerce regulations (19 CFR 353.36) the petition alleges that imports of the subject merchandise from Mexico 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 of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value is supported by comparisons of the factor netback United States price with the foreign market value as represented by the evidence of offers for sale in the home market.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether carbon steel wire rod from Mexico is being, or is likely to be, sold in the United States at less than fair value and whether critical circumstances exist. If our investigation proceeds normally, we will make our preliminary determination by May 1, 1984.

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod. Carbon steel wire rod is classified under item number 607.17 of the Tariff Schedules of the United States which covers wire rods of iron or steel; other than alloy iron or steel; not tempered, not-treated and not partly manufactured; valued over 4 cents per pound.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protection order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by January 9, 1984, whether there is a reasonable indication that imports of carbon steel wire rod from Mexico are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 13, 1983.

[FR Doc. 83-34643 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-301-004]

Carbon Steel Wire Rod From Poland; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether carbon steel wire rod from Poland is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are materially injuring, or are threatening to materially injure, a United States industry. Also, critical circumstances have been alleged under section 733(e) of the Tariff Act of 1930, as amended (the Act). If the investigation proceeds normally, the ITC will make its preliminary determination on or before January 9, 1984, and we will make ours on or before May 1, 1984.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Julia Hathcox, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 377-0184.

SUPPLEMENTARY INFORMATION:

The Petition

On November 23, 1983, we received a petition in proper form from counsel for Atlantic Steel Company, Continental Steel Co., Georgetown Steel Corp., North Star Steel Co.—Texas, and Raritan River Steel Company, filed on behalf of the domestic producers of carbon steel wire rod. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Poland 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 of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value are supported by a comparison of the factory netback United States prices with the foreign market value as represented by evidence of an offer for sale in the Spanish home market. Spain previously has been chosen as a surrogate country in cases involving Poland.

In a case involving a state-controlled economy country, the foreign market value of carbon steel wire rod exported from that country must be determined in accordance with 773(c) of the Act. The surrogate procedure, as prescribed by the Department's regulations (19 CFR 353.8), contemplates the use of prices for the like product when sold for consumption in a market economy comparable in its stage of economic development to the non-market economy country, or a constructed value.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegation. We have examined the petition on carbon steel wire rod and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether carbon steel wire rod from Poland is being, or is likely to be, sold in the United States at less than fair value and whether critical circumstances exist. If our investigation proceeds normally, we will make our preliminary determination by May 1, 1984.

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod. Carbon steel wire rod is classified under time number 607.17 of the Tariff Schedules of the United States which covers wire rods of iron or steel; other than alloy iron or steel; not tempered, not-treated and not partly manufactured; valued over 4 cents per pound.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either poublicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by January 9, 1984, whether there is a reasonable indication that imports of carbon steel wire rod from Poland are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 13, 1983.

[FR Doc. 83-34641 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-301-004]

Carbon Steel Wire Rod From Spain; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether carbon steel wire rod from Spain is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are materially injuring, or are threatening to materially injure, a United States industry. Also, critical circumstances have been alleged under section 733(e) of the Tariff Act of 1930, as amended (the Act). If the investigation proceeds normally, the ITC will make its preliminary determination on or before January 9, 1984, and we will make ours on or before May 1, 1984.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Julia Hathcox, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-0184.

SUPPLEMENTARY INFORMATION:

The Petitions

On November 23, 1983, we received a petition in proper form from counsel for Atlantic Steel Company, Continental Steel Co., Georgetown Steel Corp., North Star Steel Co.—Texas, and Raritan River Steel Company, filed on behalf of the domestic producers of carbon steel wire rod. In compliance with the filing requirements of § 353.36 of the Commerce Regulations 919 CFR 353.36), the petition alleges that imports of the subject merchandise from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value is supported by a comparison of the factory netback United States prices with the foreign market value as represented by evidence of an offer for sale in the home market.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether carbon steel wire rod from Spain is being, or is likely to be, sold in the United States at less than

fair value and whether critical circumstances exist. If our investigation proceeds normally, we will make our preliminary determination by May 1, 1984.

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod. Carbon steel wire rod is classified under item 607.17 which covers wire rods of iron or steel; other than alloy iron or steel; not tempered, not treated and not partly manufactured; valued over 4 cents per pound.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by January 9, 1984, whether there is a reasonable indication that imports of certain carbon steel products from Spain are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 13, 1983.

[FR Doc. 83-34640 12-29-83; 8:45 am]
BILLING CODE 3510-DS-M

Notice of Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed with 20 days within the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 84-6. Applicant: VA Medical Center, 1660 S. Columbian Way, Seattle, WA 98108. Instrument: Electron Microscope, Model JEM-100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: Diagnostic evaluation of human disease processes through the identification and differentiation of specific cell types in both human and animal tissues. The instrument is used to determine with as much accuracy as is possible, the nature of the etiologic agents of disease (Viruses, Rickettsia, Mycoplasma, etc.) and the nature of the cellular reaction to disease or injury or both, to estimate the probable outcome of a given patient, to provide proper treatment, to measure the effects of specific treatment regimens, and to compare the effects of various differing treatments. Education—To teach residents the importance of EM study in clinical practice of pathology by using the EM as an elucidation and quality control process for traditional light microscopy evaluation of tissues in surgical biopsy and post mortem examination. Application received by Commissioner of Customs: November 22, 1983.

Docket No.: 84-7. Applicant: University of California, Santa Barbara, Purchasing Department, Santa Barbara, CA 93106. Instrument: Isotope Mass Spectrometer, MAT 261. Manufacturer: Finnigan MAT, West Germany. Intended use: Research—Measurement of the isotopic composition of microgram and sub-microgram amounts of lead, strontium and neodymium during age measurements of rocks and natural tracer experiments. Application received by Commissioner of Customs: November 22, 1983.

Docket No.: 84-8. Applicant: Harvard University, Department of Tropical Public Health, 665 Huntington Avenue, Boston, MA 02115. Instrument: 170 Small Mammal Traps (Longworth Type). Manufacturer: Penlon Ltd., United Kingdom. Intended use: Studies of small mammals in field locations in New England to determine fluctuations in mammal populations and ectoparasite abundance. Application received by Commissioner of Customs: November 22, 1983.

Docket No.: 84-10. Applicant: FDA/ National Center for Devices and Radiological Health, Office of Training and Assistance/Technical Development, 1901 Chapman Avenue (Rm 216), Rockville, MD 20857. Instrument: Radiographic Phantom. Manufacturer: Techtum Instrument AB, Sweden. Intended use: Imaging phantom will be tested and evaluated for use with an LucAl attenuation phantom for determining the quality of chest radiography and compared against other domestically available non-anatomical chest phantoms. Application received by Commissioner of Customs: November 29, 1983.

Docket No.: 84-11. Applicant: Spelman College, 350 Spelman Lane, SW., Atlanta, GA 30314. Instrument: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: Study of parasite tissues from the various life cycle stages of trematodes. The materials to be examined will include gonads and the tegument of adult trematodes, the cyst wall and concretions of the metacercaria, the cercaria and sporocysts of various trematodes. The analysis will provide information on normal organization of the tegument, parenchyma and gonads or on the alterations in their tissues when the parasites are cultured in vitro. Education—Training in theory and practice in biological specimen preparation, observation with electron microsope and interpretation of micrographs. Application received by Commissioner of Customs: November 29, 1983.

Docket No.: 84-12. Applicant: Arizona State University, Tempe, AZ 85287. Instrument: Ion Microanalyzer, Model IMS-3F. Manufacturer: Cameca Instruments, France. Intended use:

(1) Studies aimed at understanding the critical role of dopant and trace impurity distribution and redistribution in the electronic and photoelectronic properties of semiconductor materials.

(2) Studies aimed at understanding diffusion processes, particularly of the light elements H, C, N, O, F and S in semiconductors, minerals and ceramic materials.

(3) Study of the lateral distribution of trace elements in biological tissue.

(4) Studies of lateral distributions of biomolecular species in biological tissue.

(5) Studies of trace and impurity element diffusion in metals.

(6) Development of new surface imaging techniques, including electron-desorbed ion microscopy and secondary electron microscopy.

(7) Study of isotope ratio variations of a wide range of elements in meteorite samples.

(8) Studies of fundamental parameters of the sputtered ion emission process.

Application received by Commissioner of Customs: November 29, 1983.

Docket No.: 84–13. Applicant: Indiana University, 1101 E. 17th Street, Bloomington, IN 47405. Instrument: Excimer Laser Discharge Chamber, Model 860–4 with Accessories. Manufacturer: Lumonics Inc., Canada. Intended use: Experiments involving laser induced ionization of gas phase and surface adsorbed molecules. High intensity excimer laser radiation is utilized to ionize molecules in time of flight mass and photoelectron spectrometers. Analysis of the mass distribution of the ions generated and the kinetic energy distribution of the electrons emitted leads to the development of both an ultrasensitive analytical technique and a high resolution method of performing ion spectroscopy. Application received by Commissioner of Customs: November 29, 1983.

Docket No.: 84–14. Applicant: University of Vermont, Department of Pathology, Burlington, VT 05405. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Investigation of clinical (human) diagnostic specimens, for biological research and for medical and biological scientist education. Human tissues of various types (renal tissue, neoplasms, skeletal muscle and nerve, nasal mucosa, virus-containing fluids and tissues and mineral contaminated lung) are examined ultrastructurally for diagnostic purposes. Research work involving studies of pulmonary epithelium, pulmonary contractile tissue cells, endothelium virus infections in various animal models and effects of minimal contaminants on the lungs. Electron microscopy instruction as part of a pathology training program offered to resident physicians. Application received by Commissioner of Customs: November 29, 1983.

Docket No.: 84–15. Applicant: The University of Iowa, College of Dentistry/Dental Research, Iowa City, IA 52242. Instrument: High Resolution Goniometer ± 60° Tilt. Manufacturer: Carl Zeiss, West Germany. Intended use: As an accessory to an existing electron microscope, the instrument will provide facilities necessary to undertake the following research projects:

(1) The nature of the permeability barrier in oral epithelium.

(2) Growth, Surgical and Speech Aspects of Cleft Palate—The Maxillofacial Growth Project.

(3) Three projects directed toward increasing the understanding of the aetiology, histopathology and prevention of dental caries.

(4) Therapeutic applications of fluorinated chelating agents.

Education—Training course for dental graduate students in the principles of light and electron microscopy and basic techniques for use of all types of microscopes including hands on experience.

Application received by Commissioner of Customs: November 29, 1983.

(Catalog of Federal Domestic Assistance Program No. 11 105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-34839 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Minority Business Development Center Program; Solicitation of Applications

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate one project for a 12-month period beginning May 1, 1984 in the Charleston, South Carolina SMSA. The cost of the project is estimated to be $187,000. The maximum Federal participation amount is $158,950. The minimum amount required for non-Federal participation is $28,050. The award number will be 04–10–84004–01.

Applicants shall be required to contribute at least 15% of the total program costs through non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: January 20, 1984.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency, 1371 Peachtree Street, NE, Suite 505, Atlanta, GA 30309.

FOR FURTHER INFORMATION CONTACT: Gordon M. Anderson, Telephone (404) 881–3094.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

1. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—the organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)
—background credentials and references for the owners of the organization and a capability statement of what the organization can do.
—knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide résumés for all professional staff personnel.
—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.
—Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.
—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and
—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MDBA.

E. *Disposition of Proposals.* Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. *Proposal Instructions and Forms.* This program is subject to OMB Circular A–95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the above address on January 9, 1984 at 1 p.m.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)

Dated: December 19, 1983.

Sunny L. Guider,
Acting Regional Director.

[FR Doc. 83-34624 Filed 12-29-83; 8:45 am]
BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Public Hearing Scheduled for the Proposed Fagatele Bay (American Samoa) National Marine Sanctuary and Extension of Comment Period

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement and

Management Plan prepared for the proposed Fagatele Bay (American Samoa) National Marine Sanctuary. The hearing will be held on January 18, 1984, 7:00 p.m. at the Convention Center in Utulei, Tutuila Island, American Samoa.

The views of interested persons and organizations on the adequacy of the impact statement and management plan on the proposed Fagatele Bay National Marine Sanctuary are solicited, and may be expressed orally or in written statements. Presentations will be on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared, but staff present will record the general thrust of the remarks.

At the request of the American Samoa Government, the comment period for this Draft Environmental Impact Statement and Management Plan will be extended an additional 15 days and will end on January 20, 1984. As part of the procedures leading toward designation of this sanctuary, a Final Environmental Impact Statement and Management Plan (FEIS/MP) reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCRM prior to the deadline will be included in the FEIS/MP.

FOR FURTHER INFORMATION CONTACT:
Dr. Nancy Foster, Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20235, telephone: 202/634-4236.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: December 23, 1983.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 83-34637 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes to the Correlation; Textile and Apparel Categories With Tariff Schedules of the United States, Annotated, January 1, 1984

Correction

In FR Doc. 83-33201 beginning on page 55607 in the issue of Wednesday, December 14, 1983, make the following corrections in the table:

1. In category 334, under "Add", third line, "coats for" should have read "coats of".

2. In category 335, under "change", third line, "383.3548" should have read "383.3458".

3. In category 335, in the second entry for "Add", first line, "coats for" should have read "coats of".

4. In category 359, under "Add", first line, "other coats for" should have read "other garments of".

5. In category 634, under "Add", fifth line, "coats for" should have read "coats of".

6. In category 635, in the second entry for "Add", third line, "coats for" should have read "coats of".

7. In category 659, under "Add", first line, "coats for rubber" should have read "garments of rubber".

BILLING CODE 1505-01-M

Announcing New Categories for Rubber and Plastic Wearing Apparel in Chief Weight of Cotton or Man-Made Fibers and Soliciting Public Comment

December 27, 1983.

Exempting until September 1, 1984 from the export visa requirements and quota levels currently in effect for certain cotton, wool and man-made fiber textile products, regardless of the date of export, certain garments of rubber or plastic containing 50 percent or more by weight of cotton or man-made fibers classified in T.S.U.S.A. numbers 772.3015, 772.3020, 772.3025, and 772.3030). Effective January 1, 1984, these T.S.U.S.A. numbers will be classified in new categories 355 (men's and boy's coats of rubber or plastic containing cotton), 356 (women's, girls' and infants' coats of rubber or plastic containing cotton), 655 (men's and boys' coats of rubber or plastic containing man-made fiber), and 656 (women's, girls' and infants' coats of rubber or plastic containing man-made fiber).

In the directive published below, the Chairman of CITA directs the Commissioner of Customs to exempt goods classified in Categories 355, 356, 655, and 656 from the quota levels and visa requirements of the bilateral agreements until September 1, 1984.

Any party wishing to comment or provide data or information regarding these products, or to comment on domestic production or availability of these products, is invited to send such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, the Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenues, NW., Washington, D.C. 20230. Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding the bilateral agreements, or the implementation thereof, is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 27, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: To facilitate implementation of the U.S. textile import restraint program, it would be appreciated if, effective on January 1, 1984 and until September 1, 1984, you exempt from the quota levels and export visa requirements coats and jackets of rubber or plastic, containing 50 percent or more by weight of cotton or man-made fibers in Categories 355, 356, 655 and 656 [1] from all countries, regardless of the date of export.

This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementations of Textile Agreements.

[FR Doc. 83-34645 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-DR-M

Establishing an Import Level for Certain Cotton Textile Products Produced or Manufactured in Pakistan

December 27, 1983.

ACTION: Further amending the bilateral agreement with Pakistan to establish a new specific limit of 50,000 dozen for cotton dresses in Category 336, produced or manufactured in Pakistan and exported during the six-month period which began on July 1, 1983 and extends through December 31, 1983.

[1] T.S.U.S.A. numbers 772.3015, 772.3020, 772.3025 and 772.3030.

By exchange of letters dated October 25 and November 4, 1983 the Governments of the United States and Pakistan have agreed to further amend the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, to establish a new specific limit for Category 336 for the remainder of the agreement which runs through December 31, 1986. The level for the first year, 1983, is prorated at 50,000 dozen for goods exported during the six-month period.

EFFECTIVE DATE: January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 17, 1982, there was published in the **Federal Register** (47 FR 56536) a letter dated December 14, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, produced or manufactured in Pakistan, and exported to the United States during the twelve-month period which began on January 1, 1983. In accordance with the terms of a further amendment to the bilateral agreement with Pakistan, the Chairman of the Committee for the Implementation of Textile Agreements is directing the Commissioner of Customs to establish a new specific limit for Category 336.

The level has not been adjusted to account for any imports exported after June 30, 1983. Charges will be made to the level to account for merchandise exported on and after July 1, 1983. Merchandise in Category 336 which has been exported on and after January 1, 1983 will also be charged to the aggregate limit established in the directive of December 14, 1982.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 27, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 14, 1982, which established levels of restraint for certain specified categories of cotton textiles and cotton textile products, produced or manufactured in Pakistan and exported during 1983.

Effective on January 4, 1984, the directive of December 14, 1982 is hereby further amended to establish a limit of 50,000 dozen for cotton textile products in Category 336,[1] produced or manufactured in Pakistan and exported on and after July 1, 1983 and extending through December 31, 1983.

Textile products in Category 336 which have been exported before July 1, 1983 shall not be subject to this directive; however, textile products in Category 336, exported on and after January 1, 1983 should be charged to the aggregate limit established in the directive of December 14, 1982.

Textile products in Category 336 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 53. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-34644 Filed 12-29-83; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1984 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: December 30, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 24, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (48 FR 29038) of proposed addition to Procurement List 1984, October 18, 1983 48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractor for the service listed.

c. The action will result in authorizing small entities to provide a service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1984:

SIC 7699

Repair Services for Electrode Holder Assemblies
Bremerton, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 83-34653 Filed 12-29-83; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

Final Report of the Toxicological Advisory Board; Request for Written Comments and Hearing for Oral Comments

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission announces the availability of the Final Report of the Toxicological Advisory Board (TAB), which recommended a number of changes in the Commission's requirements and recommendations for labeling for hazardous substances. The Commission is seeking comments from interested parties before determining whether to implement some or all of the Board's recommendations. In addition to written comments, the Commission has scheduled a hearing on April 16, 1984 for interested parties to make oral comments on the report.

DATES: Written comments on the report should be submitted on or before April 30, 1984. The hearing for oral comments will be on April 16, 1984, beginning at 10:00 a.m.

ADDRESSES: Single copies of the TAB report may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C.

[1] The level has not been adjusted to reflect any imports exported after June 30, 1983.

20207, phone (301) 492–6800. Written comments on the report may be mailed to that address or delivered by hand to the Office of the Secretary, Room 336, 5401 Westbard Avenue, Bethesda, Maryland. The hearing for oral comments will be at 1111-18th Street, N.W., Washington, D.C. in the Commission's third floor conference room.

FOR FURTHER INFORMATION CONTACT: Fred J. Marozzi, Ph.D., Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492–6477.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Authorization Act of 1978 (Pub. L. 95–631) amended the Federal Hazardous Substances Act (FHSA) to provide that the Consumer Product Safety Commission establish a Toxicological Advisory Board ("TAB" or "the Board") to advise the Commission on precautionary labeling for hazardous substances subject to the FHSA and on the exemption of certain substances from the labeling requirements under the FHSA. 15 U.S.C. 1275. This statute provided that the TAB would develop and submit to the Commission any recommendations for revisions in such labeling requirements or guidelines which the Board considers to be appropriate, including any general recommendations which may be of assistance to the Commission in carrying out its responsibilities under section 2(p)(1) or 3(b) of the FHSA. The TAB submitted its final report addressing this statutory purpose in September of 1982. The Commission's staff has completed its initial evaluation of the Board's recommendations but believes that comments from interested persons should be obtained before the TAB recommendations are finally considered.

The TAB reviewed a number of hazardous substances found in household products and made recommendations concerning the labeling of those substances. The principles underlying the major differences in the recommended labeling compared to current practices are explained below. In addition, the Board made other recommendations which are summarized below.

Recommended Deletions From the CPSC Labeling Guide

The Board has recommended that a number of substances be deleted from the CPSC Labeling Guide. This recommendation generally results from a finding that the substance does not appear to be present in products subject to CPSC's jurisdiction, or that there is a lack of evidence to demonstrate a significant hazard.

Recommended Deletions:
Ammonium chloride
Ammonium sulfate
Benzoic acid
Carbon bisulfide
Chloroform
Lactic acid
Monochloroacetic acid
Salicylic acid
Selenous acid

Additional strong sensitizers. Although the Board did not have sufficient resources to document completely their strong sensitization potential, the Board believes that there exists sufficient presumptive evidence regarding the substances listed below to recommend further study by the Commission.

1. Ethylenediamine and diethylenetriamine contained in household products other than epoxy resins. (These two substances, when present in epoxy resins, are currently required to be labeled as strong sensitizers.)
2. Castor beans.
3. Benzoyl peroxide.
4. Nickel salts in chemical household products.

Small amounts of strong sensitizers. Some members of the Board believed that the Commission should explore the possibility of seeking the cooperation of industry in "Alert" labeling of products containing even minute amounts of strong sensitizers. Such a program would enable sensitized individuals to avoid such products. Other members, although sympathetic to the plight of sensitized individuals, felt that this was not the best approach to the problem. They noted that virtually all substances may be allergens for certain segments of the population.

Labeling Practices

a. *Physician alerts.* The Board feels that a product's label should, where appropriate, provide a treating physician with the information required to initiate expeditious and appropriate therapy. Toward this end, the Board at times recommended the inclusion of a voluntary "Physician Alert" on the labels of some substances.

b. *Percentage labeling.* Labels are, at present, rquired to only identify those ingredients which substantively contribute to the product's hazard. The TAB feels, however, that a requirement that the *actual percentage* of hazardous ingredient be listed would be extremely useful to medical personnel in many emergency situations. Such labeling could allow medical personnel to better assess the toxicity of the product and thus to make a better evaluation of the level of medical response necessary.

c. *Hydrocarbons.* The Board's approach to this category of consumer products was to differentiate two major classes of such products. The first class, and one of great concern, is composed of products containing aliphatic hydrocarbons. Typical consumer products containing aliphatic hydrocarbons are certain furniture polishes, cigarette lighter fluids, and charcoal lighter fluids. The second major class consists of consumer products that contain aromatic hydrocarbons, such as toluene and xylene found in flammable contact bond cements.

Those products which contain aliphatic hydrocarbons may, depending upon the viscosity of the formulation, present significant aspiration hazards upon accidental ingestion, both when initially ingested and if vomiting is induced as part of first aid or medical treatment. Such products having a viscosity of greater than 100 S.U.S. (Saybolt Universal Seconds) when measured at 100°F pose little if any aspiration hazard. Products with viscosities of 35 S.U.S. or less, on the other hand, may be considered as having a *severe* aspiration hazard associated with accidental ingestion. Products falling between these two viscosities would present a moderate aspiration risk.

The Board concluded that products having viscosities of 35 S.U.S. or less should incorporate a statement to the effect that a severe aspiration hazard exists. This statement would appear in the "Physician Alert" section of the label. This information, coupled with a knowledge of the toxic ingredients in a product, would allow a physician to determine whether the aspiration hazard outweighs the risk of systemic toxicity due to other ingredients in the formulation.

Moderate and *slight* aspiration hazards could also be indicated on the label, according to the viscosity of the product. (Note: The Board was not unanimous in this recommendation.)

d. *Instructions to induce vomiting.* The Board noted that a controversial area involves the proper instruction for first aid treatment of petroleum distillate ingestions with regard to whether vomiting should or should not be induced. The Board feels that the current blanket requirement of 16 CFR 1500.14(b)(e)(ii) that these products bear a statement cautioning *against* inducing vomiting is inappropriate since there will be instances in which the systemic

toxicity of a product will outweigh the aspiration hazard and vomiting would be an appropriate first aid procedure. The final decision with respect to emesis should normally be made by the physician on clinical grounds. The Board for these reasons utilized labeling statements to the effect that vomiting should not be induced unless so directed by a physician, or that vomiting should be induced but only on the advice of medical personnel.

TAB believes very strongly that with the exception of syrup of ipecac, there is no really effective means of inducing emesis outside of a hospital. Thus, the Board felt that it could not recommend alternatives to syrup of ipecac in those situations where emisis might be indicated. Rather, the Board recommends that instructions be given to seek medical advice. Where, because of severe systemic toxicity, induction of emesis is essential, a label may state "Vomiting Must Be Induced" or "Induce Vomiting with Syrup of Ipecac."

e. *Instructions for dilution.* The Board has, in general, recommended water as a primary dilutent, with milk being recommended as an alternative (e.g., SWALLOWED: Rinse mouth, Drink a glassful of water or milk.). Milk has been recommended as the primary dilutent in certain cases where it would be particularly beneficial. (Milk is capable of forming complexes with, or otherwise reacting with, many inorganic salts and thus may delay or reduce toxicity in certain instances.) The use of citrus juice or acidic solutions was not recommended.

Recommendations for Further Work

a. *Mixtures and concentration limits.* The Board urged that guidelines be developed that the Commission could use in evaluating the types of mixtures most commonly involved in consumer injuries in order to determine whether inadequate labeling could be a factor in these incidents. The Board also noted that additional biological or physical testing of products may be required in order to determine concentration limits for appropriate hazard labeling.

b. *Other.* The Board also encouraged investigation of the following tasks:

1. Development of a coding system, possibly including symbolic labeling, which might adequately reflect the type of hazard and the relative toxicity.

2. An improved method of communicating the sense of the term "adequate ventilation."

3. An exploration of ways in which more accurate hazard assessments can be made.

4. Development of guidelines on how clinical experience may be used in assessing hazards.

5. Additional review of labeling language by an expert in the area of assessment of word and phrase comprehension by the general public.

Public Comment

Members of the public who want to comment on the TAB report and its recommendations will have two opportunities to do so. First, written comments may be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. (The address for hand delivery is 5401 Westbard Avenue, Bethesda, Maryland.) Written comments will be timely if received by the Commission by April 30, 1984. Second, oral comments may be made at a hearing on April 16, 1984. The hearing will be in the third floor conference room at 1111 18th Street, NW., Washington, D.C., beginning at 10:00 a.m. Anyone who wants to present oral comments should contact Sheldon Butts, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6800, no later than [date—about a week before the hearing date]. Depending on the number of participants in the hearing, presentations may be limited due to relevance, repetition, available time or other considerations. Please note that interested persons are welcome to submit written comments and present oral comments.

Dated: December 22, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-34572 Filed 12-29-83; 8:45 am]

BILLING CODE 6355-01-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 a Panel of the DIA Advisory Committee has been scheduled as follows:

Tuesday and Wednesday, January 31 and February 1, 1984, Plaza West, Rosslyn, Va. The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on chemical and biological warfare.

December 27, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-34717 Filed 12-29-83; 8:45 am]

BILLING CODE 3810-01-M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DOD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 121. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 121 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: December 13, 1983.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 121

To the Heads of the Executive Departments and Establishments

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in

Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 120 except for the cases identified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$12.00
Anaktuvuk Pass	140.00
Anchorage	92.00
*Atqasuk	215.00
Barrow	153.00
Bethel	131.00
Coldfoot	122.00
College	97.00
Cordova	113.00
Deadhorse	131.00
Dillingham	103.00
Dutch Harbor	92.00
Eielson AFB	97.00
Elmendorf	92.00
Fairbanks	97.00
Ft. Richardson	92.00
Ft. Wainwright	97.00
Juneau	106.00
Ketchikan	104.00
Kodiak	110.00
Kotzebue	109.00
Murphy Dome	97.00
Noatak	109.00
Nome	112.00
Noorvik	109.00
Petersburg	104.00
Point Hope	100.00
Prudhoe Bay	131.00
Shemya AFB [1]	12.75
Shugnak	109.00
Sitka-Mt. Edgecombe	104.00
Skagway	104.00
Spruce Cape	110.00
Tanana	112.00
Valdez	101.00
Wainwright	165.00
Wrangell	104.00
All Other Localities	83.00
America Samoa	75.00
Guam M. I.	74.00
Hawaii:	
Oahu	94.00
All Other Localities	67.00
Johnston Atoll [2]	21.25
Midway Islands [1]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	124.00
5-16—12-15	99.00
Carolina:	
12-16—5-15	124.00
5-16—12-15	99.00
Fajardo (Including Luquillo):	
12-16—5-15	124.00
5-16—12-15	99.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	124.00
5-16—12-15	99.00
Ponce (Incl. Ft. Allen NCS)	72.00
Roosevelt Roads:	
12-16—5-15	124.00
5-16—12-15	99.00
Sabana Seca:	
12-16—5-15	124.00
5-16—12-15	99.00
San Juan (Including San Juan Coast Guard Units):	
12-16—5-15	124.00
5-16—12-15	99.00
All Other Localities	99.00
Virgin Islands of U.S.:	
12-1—4-30	120.00
5-1—11-30	88.00
Wake Island [2]	20.00
All Other Localities	20.00

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

Dated: December 27, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83-34720 Filed 12-29-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

December 22, 1983.

The USAF Scientific Advisory Board Arnold Engineering Development Center Advisory Group will hold meetings on February 14, 1984, from 8:00 a.m. to 4:30 p.m. and on February 15, 1984, from 8:00 a.m. to 2:30 p.m. Central Standard time, at Arnold Air Force Station, Tennessee, in the A&E Building Conference Room.

The Group will receive classified briefings and hold classified discussions on selected Air Force Ground Test Facilities Requirements and Programs. The meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof and may be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 83-34605 Filed 12-29-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Meeting Change

December 27, 1983

The following change has occurred for the meeting of the Army Science Board Ad Hoc Subgroup on Army Utilization of Space Assets, which was announced in the **Federal Register** issue of Tuesday, December 20, 1983 FR Doc. 83-33661 on page 56254:

Place of Meeting

Pentagon, Washington, D.C. on 18-19 December 1983 (instead of Los Angeles Air Force Station, Los Angeles, California).

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-34842 Filed 12-29-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office for Civil Rights

Final Annual Operating Plan for Fiscal Year 1984

AGENCY: Department of Education.

ACTION: Notice of final annual operating plan for fiscal year 1984.

SUMMARY: The Office for Civil Rights (OCR) issues its Annual Operating Plan (AOP) for Fiscal Year 1984. The AOP describes the activities that OCR plans to conduct in FY 1984 with respect to compliance and enforcement, technical assistance, and program management.

FOR FURTHER INFORMATION CONTACT: Lauralee Over, Deputy Assistant Secretary for Civil Rights, Department of Education, (RM. 5110, Switzer Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-1724.

SUPPLEMENTARY INFORMATION: The proposed FY 1984 Annual Operating Plan for the Office for Civil Rights was published in the **Federal Register** on July 27, 1983, (48 FR 34094-34098), with an invitation to comment. A summary of the comments received and the Secretary's responses to those comments is included below.

Summary of Comments and Responses

Comment: The AOP does not include adequate information to describe its proposed activities. Staffing and budget data should be included along with projections of resources to be allocated to specific activities.

Response: A change is made. The Plan now indicates that the proposed activities are consistent with the FY

1984 Appropriations Act for the Departments of Labor, Health and Human Services, and Education, and related agencies (Pub. L. 98–139), which was enacted on October 31, 1983. The appropriation for the OCR compliance program is also provided. However, no specific projections of resources to be allocated to particular activities have been added. In the Plans prior to FY 1983, OCR included projections of investigative staff time which were not accurate in forecasting the actual use of resources. It was concluded that unpredictable factors, such as court decisions and public awareness, have such an impact on the size and nature of OCR's workload that national projections of investigative staff time to accomplish specific activities did not prove to be a useful OCR management tool. For example, a revised order was issued on March 11, 1983, in the *Adams v. Bell* case. The revised order resulted in a significant impact on OCR's activities. For that reason, OCR has decided not to include such projections in the AOP.

Comment: No criteria for objective evaluation of regional performance have been articulated.

Response: No change is made. A number of mandatory and discretionary mechanisms exist for the evaluation of regional performance, in terms of both the organizational component and specific personnel. Included in these mechanisms are the Merit Pay and General Performance Appraisal Systems, OCR's Management-by-Objectives System, OCR's Quality Assurance process and regular management evaluations of workloads and case processing efficiency. To articulate the specific components of any one or all of these mechanisms would be inappropriate for the content of an annual operating plan.

Comment: The proposed AOP continues OCR's mediation (Early Complaint Resolution) and pre-determination procedures, which do not serve the consumer.

Response: No change is necessary. The purpose of the Early Complaint Resolution (ECR) process, in which OCR serves as a mediator, is to facilitate prompt resolution of complaints before conducting formal investigations. ECR is offered as a strictly voluntary process to the parties in a complaint. If resolution is not achieved within the prescribed time frames, OCR conducts an investigation. The rights of the complainant are fully protected under the pre-determination settlement procedures, which are utilized prior to the formal issuance of OCR's findings. OCR will continue to monitor both procedures to ensure that complainants' rights are protected fully and that the settlements are consistent with regulatory requirements. OCR is able to utilize the resources available through ECR and pre-determination settlement procedures for other compliance activities.

Comment: More emphasis should be placed on examining the special problems of double and triple discrimination experienced by minority and handicapped women. OCR is urged to develop and use expertise in this area in reducing sex discrimination.

Response: No change is necessary. In recent years, OCR has received greater numbers of multijurisdictional complaints, where violations are alleged under more than one statutory authority. OCR is required to conduct a full investigation of all allegations contained in a discrimination complaint. Likewise, the majority of the FY 1984 compliance review issues, as described in Tables 2 and 3, address discrimination based on more than one nondiscrimination provision of law. This will permit OCR to investigate whether beneficiaries or potential beneficiaries are accorded nondiscriminatory treatment pursuant to all OCR-administered laws. In light of the unique problems of double and triple discrimination, OCR will address compliance issues which are presented to the extent resources are available. OCR will also continue to expand its technical assistance program beyond section 504 to include Title VI and Title IX.

Comment: OCR is urged to increase its compliance work in the area of vocational education.

Response: No change is made. Discrimination in vocational education programs is addressed as a part of OCR's compliance activities. This subject area is pursued through OCR's methods of administration monitoring reviews and through OCR's compliance reviews. OCR also intends to award a contract in FY 1984 for a survey of vocational education institutions.

Comment: The compliance review issues do not include review of school curricula for their multicultural bases. The commenter considers the cultural context in which education occurs critical in meeting the educational needs of minority students and combating discrimination.

Response: No change is made. None of the civil rights laws enforced by OCR requires that school curricula have multicultural bases. This is an area which remains the proper responsibility of State and local officials.

Comment: OCR shoud conduct on-site reviews of a representative sample of sub-recipients which the States have reviewed under their Vocational Education Methods of Administration (MOA) programs. Further, OCR should take aggressive steps against States which have failed to implement their MOAs to ensure prompt corrective action.

Response: No change is necessary. The OCR regional offices are responsible for reviewing the MOAs and evaluating performance as described in the annual reports which the States submit. It is also the responsibility of the regional offices to identify the deficiencies of any State program, to work with the State agencies to correct them, and to monitor their progress. OCR headquarters is conducting a complete review of regional office assessments of the latest MOA reports, and the Assistant Secretary will direct follow-up action as appropriate.

Comment: It appears that OCR may be seeking to increase technical assistance at the expense of compliance and enforcement activities. Instead, enforcement activity should be increased and more wide-ranging compliance reviews undertaken.

Response: No change is necessary. While OCR seeks to continue efforts aimed at encouraging voluntary compliance through an enhanced program of technical assistance, these activities will not compromise the mandated compliance responsibilities. The AOP indicates that technical assistance activities complement compliance and enforcement activities by encouraging compliance on the part of recipients.

Comment: Consumers should participate in developing materials which summarize OCR's policies and regulations and in providing training to OCR investigative and legal staff.

Response: No change is necessary. The AOP includes the statement that OCR will increase its outreach activities to beneficiary groups to identify technical assistance needs as well as new techniques for providing technical assistance.

Comment: The Plan does not address surveys of school districts and higher education institutions to obtain civil rights data essential for compliance work.

Response: No change is necessary. Section IV of the Plan states that OCR will conduct "surveys and data collection projects to obtain information on recipients and beneficiary populations." Specifically, during Fiscal Year 1984 these activities will include continued annual data collection for monitoring implementation of statewide

higher education desegregation plans and for monitoring compliance activities in the New York City School System. In addition, three of OCR's biennial surveys (Higher Education General Information Survey of Students Enrollement—2300–2.3; Elementary and Secondary School Civil Rights Survey, District Summary—ED–101; and Individual School Report—ED–102) will be conducted during this fiscal year. The other biennial survey, Higher Education General Information Survey of Earned Degrees—2300–2.1, was conducted during Fiscal Year 1983 and will be conducted again in Fiscal Year 1985. OCR also intend to award a contract in Fiscal Year 1984 far a survey of vocational education institutions.

Comment: The Plan's regional focus suggests that no national policy choices are being made with respect to selection of compliance reviews or problems requiring training/or technical assistance.

Response: No change is necessary. While the regional offices participate in planning for OCR's compliance, enforcement and technical assistance activities, and are the primary focal point for implementation of most of these activities, the Assistant Secretary establishes national policy and program director. Moreover, a number of mechanisms remain national policy and program direction, consistency and control. For example, policy development remains an OCR headquarters function. The regions select potential compliance reviews based on criteria issued by the Assistant Secretary and then nominate those sites for specific approval by the Assistant Secretary. Regional technical assistance activities are monitored by OCR headquarters on a regular basis. Further, the Assistant Secretary directed the regional offices to coordinate all programmatic training with OCR headquarters.

I. Introduction

The basic purpose of the Office for Civil Rights (OCR) is to ensure that no person is unlawfully discriminated against by recipients of Federal education funds on the basis of race, color, national origin, sex, handicap, or age in the delivery of services or the provision of benefits. The jurisdictional authorities under which OCR operates are Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

Covered under these authorities are 50 State education agencies, 16,000 local school systems, 3,200 colleges and universities, 10,000 proprietary institutions, 50 rehabilitation agencies and their subrecipients, as well as other institutions such as libraries and museums which receive financial assistance from the Department of Education (ED). OCR protects the civil rights of 12 million minority group members, 4 million handicapped persons and 26 million women who attend these institutions.

OCR's strategy to ensure compliance with Federal civil rights statutes involves two basic types of activities: compliance activities and technical assistance activities. Nearly all of OCR's compliance activities (complaint investigations, compliance reviews, and monitoring the implementation of voluntary compliance plans) are required by various statutes, regulations and court orders. OCR has some discretion, however, as to where it will conduct its compliance review activities and what issues those reviews will cover. For the most part, OCR concentrates these investigative activities on those recipients which have been identified as having possible compliance problems.

Given the large number of institutions under its jurisdiction, OCR is unable to investigate the policies and practices of each recipient. Therefore, through technical assistance, which includes the transfer of information, material and skills, OCR assists recipients to comply voluntarily with the law and instructs beneficiaries of their rights under Federal civil rights statutes.

Compliance activities and technical assistance activities are often combined. The application of technical assistance can be a positive factor any time after the initiation of a complaint investigation or compliance review. At some point during the investigation process of following its conclusion, technical assistance can be provided in response to a request from a recipient or as a result of an inquiry by investigative staff as to whether a recipient would be interested in such assistance. As a result, resolution of a compliance issue may be achieved which is satifactory to the complainant and recipient and meets the requirements of the law.

It should be noted that the activities planned by OCR in FY 1984, and outlined below, are consistent with the FY 1984 Appropriations Act for the Departments of Labor, Health and Human Services, and Education, and related agencies (Pub. L. 98–139), which was enacted on October 31, 1983. The Act appropriates $49,396,000 for OCR.

The following narrative and tables describe the activities that OCR plans for FY 1984.

II. Compliance and Enforcement Activities

OCR's compliance and enforcement responsibilities are divided into three general categories: complaint investigations, compliance reviews and monitoring activities.

A. Complaint Investigations

The primary compliance activity is the investigation and resolution of complaints alleging discrimination. Each timely, written complaint must be resolved in accordance with established procedures and time frames.

OCR received 1,953 and closed 2,276 complaints during FY 1983, with 872 complaints pending as of September 30, 1983. Alleged discrimination against handicapped persons was the basis of approximately 45 percent of complaint receipts; race, sex, multiple bases, national origin, and age complaints followed in descending order of frequency. The largest number of complaints was filed against elementary and secondary schools. In FY 1983, 69 percent of the complaints received involved issues of service delivery to students, 24 percent involved various employment issues, 3 percent involved both, and 4 percent involved other issues. Although recent court decisions related to the statutes OCR enforces may have an impact on the number and type of complaints received during FY 1984, it is expected that the compliant workload will not vary significantly in type or number from the FY 1983 complaint workload.

During FY 1984, OCR will continue to promote the use of two initiatives which were designed to improve the efficiency of the case handling process. The first initiative, Early Complaint Resolution (ECR), is a process in which OCR acts as a mediator between the complainant and the recipient to negotiate a settlement between them. If the mediation is successful, the complaint is closed without an investigation by OCR. If the parties cannot reach an agreement, OCR investigates the complaint as usual. During FY 1983, ECR was accepted in 62 percent of the complaints where it was offered, and 64 percent of those cases were resolved through mediation.

The second initiative, the pre-determination settlement, is applicable to both complaints and compliance reviews. In the pre-determination settlement, OCR and the recipients of Federal financial assistance attempt to reach settlement prior to the formal issuance of OCR's findings. Each settlement agreement resulting from this

approach is confirmed in writing by the issuance of a letter to the recipient setting forth the terms which satisfy the applicable statutory requirements and stating all the remedies that will be implemented by the recipient. OCR then monitors the implementation of these remedies.

B. Compliance Reviews

Through its compliance review program, OCR is able to identify and remedy discrimination which may not be addressed through complaint investigations. Compliance reviews differ from complaint investigations in that OCR has some discretion in selecting the issues and institutions for review. In FY 1983, OCR initiated compliance reviews of 284 recipients; Table 1 gives information on the number of reviews initiated for each issue. During this same period, OCR closed 281 reviews.

Tables 2 and 3 describe the elementary and secondary education and postsecondary education issues, respectively, to be included in the FY 1984 compliance review program. Some of the issues which appeared in the FY 1983 Annual Operating Plan have been modified to achieve more appropriate grouping of sub-issues under the main issue categories. For example, the issue of Free Appropriate Public Education includes all the areas covered last year by the issue of Unserved Special Education as well as the Section 504 aspects of the Within School Discrimination and Discipline issues. The new definition also includes program accessibility under this issue category.

OCR relies on all available information in selecting the sites for compliance review. Selections are made to achieve a geographically balanced and jurisdictionally comprehensive compliance program.

C. Monitoring Activities

In FY 1984, OCR will monitor the following:

- Implementation of *Adams* higher education desegregation plans of approximately 416 institutions of higher education in 13 States;
- Implementation of approximately 50 Title VI *Lau* plans;
- Activities of 50 States, four territories and the District of Columbia to ensure that they fulfill their Methods of Administration responsibilities under the Vocational Education Guidelines and the July 1979 Memorandum of Procedures regarding the civil rights compliance of their vocational education sub-recipients; and
- Implementation by recipient institutions of other remedial action plans resulting from OCR complaint investigations and compliance reviews.

III. Technical Assistance Activities

Over 20,000 education institutions which reveive Federal financial assistance must comply with civil rights requirements. Because of this large number of institutions, OCR is unable to review the activities of each.

Federal enforcement of civil rights laws can be greatly enhanced through assisting and supporting the efforts of State and local entities in achieving compliance. OCR's technical assistance program responds to this need. Through this program, OCR provides assistance to recipients that are subject to a complaint investigation or a compliance review. The program also addresses specific problem areas that may be of concern to other recipient institutions and assists them to comply with the law.

OCR has developed a number of programs to broaden the scope of technical assistance provided. For example, in FY 1983 OCR regional staff, which had been providing Section 504 technical assistance, expanded their programs to include Title VI and Title IX. In the same period, OCR collaborated with State agencies in the development of Memoranda of Understanding to facilitate meeting mutual civil rights compliance goals and objectives.

In FY 1984, OCR will continue to explore ways to increase the involvement of States in civil rights compliance activities. To this end, OCR will undertake the following activities:

- Explore cooperative activities with State education and human rights agencies having civil rights compliance and enforcement responsibilities to reduce duplicative efforts and improve OCR's efficiency;
- Promote cost-effective voluntary compliance by coordinating OCR's technical assistance activities with those of other ED agencies delivering civil rights technical assistance;
- Provide training to increase State and local education agency capabilities to undertake civil rights activities; and
- Prepare materials for dissemination to recipients and beneficiaries, summarizing and explaining OCR policies and regulations.

OCR's technical assistance activities will continue to focus on those issues covered by its compliance review program. In addition, other technical assistance training topics will be identified. To date, OCR has provided technical assistance primarily through on-site visits, workshops and development and distribution of technical assistance materials. During FY 1984, OCR will increase its outreach activities to ED recipient and beneficiary groups to identify technical assistance needs as well as new techniques for providing technical assistance. OCR's staff will continue to provide technical assistance that meets the demands of unique regional characteristics, priorities and resources. In providing this assistance OCR will combine workshops and on-site consultations with telephone and written responses.

To carry out its technical assistance programs effectively, OCR will:

- Provide training to investigators and legal staff;
- Coordinate the delivery of Section 504, Title VI and Title IX technical assistance to State and local education agencies with other ED program offices;
- Implement a data base management system to track, monitor, and evaluate technical assistance activities;
- Facilitate the exchange of proper information, materials, technical assistance strategies, techniques and successful compliance practices and procedures among OCR technical assistance staff; and
- Direct and monitor the implementation of regional technical assistance programs.

IV. Program Management Activities

In conducting its compliance, enforcement and technical assistance activities, OCR continues to implement a comprehensive program that includes:

- Formulating regulations, policies and investigation manuals;
- Providing technical guidance on complaints and compliance reviews referred from regional offices;
- Conducting hearings before Administrative Law Judges on the compliance of Federal financial recipients with civil rights requirements;
- Meeting with school district representatives, college and university officials, complainants and civil rights groups to discuss OCR activities;
- Conducting OCR surveys and data collection projects to obtain information

on recipients and beneficiary populations; and

• Operating a data base management system to ensure that complaint and compliance review processing time frames are met.

V. Summary

While regional programs will vary due to considerations such as the number and type of complaints received, compliance reviews conducted, and requests for technical assistance, all OCR activities will be guided by national policies, priorities and direction. As in previous years, each Regional Director will be responsible for timely fulfillment of OCR's obligations in handling complaint investigations and compliance reviews. A large part of each region's compliance program will involve the investigation of discrimination complaints. Compliance reviews initiated in FY 1984 will include, as appropriate, each of OCR's civil rights jurisdictions and each geographic area served by a regional office. Technical assistance activities will be responsive to recipient and beneficiary needs.

VI. Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980, information collection activities undertaken pursuant to the regulations that underlie this proposed notice will be submitted for approval to the Office of Management and Budget (OMB), where required. These activities are not effective until OMB approval has been obtained, and the public notified to that effect through a notice published in the **Federal Register.**

TABLE 1.—COMPLIANCE REVIEW STARTS BY ISSUE

(Oct. 1, 1982 to Sept 30, 1983)

	Review starts
Elementary and Secondary Issues:	
Within School Discrimination	51
Vocational Education	14
Special Purpose Schools	7
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TABLE 2.—FY 1984 ELEMENTARY AND SECONDARY EDUCATION COMPLIANCE REVIEW ISSUES

Issue	Issue description
1. Within-School Discrimination	This issue includes one or more of the following areas: Student Assignment to Courses, Programs, Classes, Ability Groups and Tracks; Disciplinary Policies and Practices; Counseling Policies and Practices; Interscholastic Athletics; and Provisions for Effective Participation of National Origin Minority Students with Limited Proficiency in English in the Education Program.
a. Student Assignment to Courses, Programs, Classes, Ability Groups and Tracks.	This sub-issue covers whether assignments to programs for the educable mentally retarded or handicapped, gifted and talented, learning disabled, speech-impaired, and emotionally disturbed are free from discrimination on the basis of race, national origin and/or sex; whether assignments to ability groups and tracks are free from discrimination on the basis of race, national origin and/or sex; whether assignments to or exclusion from pre-vocational classes in home economics or industrial arts are on the basis of sex; whether assignment to or exclusion from physical education classes is on the basis of sex; whether assignment to or exclusion from other classes is on the basis of race, national origin and/or sex; and exclusion of pregnant students from the regular instructional program, including requirements for attendance in special courses or programs.
b. Disciplinary Policies and Practices	This sub-issue covers the extent to which disciplinary criteria and the application of disciplinary sanctions, including suspensions, expulsions and other punitive measures, are free from discrimination on the basis of race, national origin and/or sex.
c. Counseling Policies and Practices	This sub-issue covers whether counseling practices and materials, including course information and appraisal instruments, are free of discrimination on the basis of race, national origin and/or sex.
d. Interscholastic Athletics	This sub-issue covers provisions for pupils of each sex to participate in interscholastic athletics, including but not limited to sports offerings, scheduling, coaching, equipment, uniforms and supplies, and facilities.
e. Provisions of Effective Participation of National Origin Minority Students of Limited-English Proficiency in the Education Program.	This sub-issue covers the extent to which national origin minority pupils of limited-English proficiency are identified and provided with the services necessary for their effective participation in classes, courses, programs and activities.
2. Vocational Education: Access, Recruitment, Admissions, Counseling and Assignment.	This issue includes review of policies and practices related to access, recruitment, counseling, admissions and assignment to vocational education institutions, programs, courses and classes, including apprentice training, work-study, and cooperative education, to determine the extent to which they are free of discrimination on the basis of race, national origin, sex and/or handicap. It also includes the extent to which handicapped pupils and national origin minority pupils of limited-English proficiency receive the services they need to participate effectively in the vocational education programs offered.
3. Special Purpose Schools: Placement, Admissions, Referral, Program Availability and Pupil Services and Activities.	This issue covers the policies and practices of State-administered special purpose schools to determine whether referral, placement or admission to them is without discrimination on the basis of race or national origin. The extent to which equivalent programs and opportunities are available to pupils of each sex also will be reviewed. Major considerations will be the extent to which handicapped pupils could be placed in an alternative program with a less restrictive environment and the extent to which opportunities are provided for the integration of handicapped and nonhandicapped pupils. In addition, reviews will examine the extent to which reasonable accommodations are provided for and programs are accessible to mobility-impaired and sensory-impaired pupils; the extent to which provision of services such as work-study and job training and placement are free of discrimination on the basis of race, national origin, sex and/or handicap; the extent to which housing assignments are without discrimination on the basis of race or national origin, and the extent to which policies and practices related to student treatment, including disciplinary sanctions and provisions for participation in athletics and other extracurricular activities, are free of discrimination on the basis of race, national origin, sex and/or handicap.
4. Free Appropriate Public Education	This issue includes one or more of the following issues: Pre-placement Treatment, Post-placement Treatment and Program Accessibility.
a. Pre-placement Treatment	This sub-issue covers policies and practices for locating and identifying handicapped persons needing services; policies and practices for identifying the special needs of pupils within the school system; policies and practices for notifying handicapped persons and their parents or guardians of their rights under Section 504 and of the services available to them; policies and practices related to placement or change of placement, including provisions for evaluation, use of tests and the range of information considered; consideration of integration objectives in making placement and educational decisions; and the range of services considered in making educational and placement decisions.
b. Post-placement Treatment	This sub-issue covers the procedural safeguards available; provisions for free education and related services; availability of room and board, transportation and other non-medical services for beneficiaries with residential placements; the extent to which disciplinary sanctions are applied without denying beneficiaries necessary services; and the extent to which handicapping conditions are considered in applying disciplinary sanctions.
c. Program Accessibility	This sub-issue covers the extent to which the education program as a whole is accessible to beneficiaries in wheelchairs or with other orthopedic impairments, as well as to persons with sensory impairments and to other qualified handicapped persons.
5. Employment: Recruitment, Selection, Assignment, Promotion, Compensation, Benefits and Termination.	This issue covers whether employment practices and policies relating to recruitment, selection, assignment, promotion, and termination are discriminatory on the basis of race, national origin, and/or handicap and whether provisions for compensation and such other employment benefits as medical insurance and leave are discriminatory on the basis of sex.

TABLE 2.—FY 1984 ELEMENTARY AND SECONDARY EDUCATION COMPLIANCE REVIEW ISSUES—Continued

Issue	Issue description
6. Segregated Schools: School Attendance Zones; Pupil Transfer Policies and Practices; Assignment of Teachers and Administrative Staff.	This issue covers whether schools, primarily in large school districts, are intentionally segregated or resegregated on the basis of race or national origin as a result of attendance zone boundaries, student transfer policies and practices, employment and assignment of teachers and administrative staff that indicate a school is intended to serve pupils of a particular race or national origin, or by providing school district assistance to any other school which is segregated in order to support and maintain a segregated school option in the geographic area at the time the school district is desegregating.
7. Within District Comparability—Discriminatory Delivery of Services.	This issue covers discrimination on the basis of race and national origin in the provision of educational services and benefits among schools (e.g., limited course offerings, less qualified staff) in districts having schools that are disproportionately minority. There will be an initial inquiry to determine if a district's disproportionately minority schools are the product of unlawful segregation. If no illegal segregation exists, than the issue of equal educational opportunity will be investigated.

TABLE 3.—FY 1984 POSTSECONDARY EDUCATION COMPLIANCE REVIEW ISSUES

Issue	Issue description
1. Program Accessibility for the Handicapped	This issue covers the extent to which the education program as a whole is accessible to beneficiaries in wheelchairs or with other orthopedic impairments, as well as to persons with sensory impairments and other qualified handicapped persons.
2. Admissions	This issue covers discrimination on the basis of sex, race and/or national origin in admissions to undergraduate, graduate and professional schools.
3. Intercollegiate Athletics	This issue covers discrimination on the basis of sex in athletic financial assistance or athletic financial assistance and overall program comparability.
4. Vocational Education: Access, Admissions, Financial Aid, Recruitment and Job Placement.	This issue covers whether vocational education programs, courses, and job placement are free of discrimination on the basis of race, national origin, sex and/or handicap.
5. Student Services	This issue covers discrimination on the basis of race, national origin, sex and/or handicap as applicable in the provision of services such as financial aid, housing, special programs for minorities, counseling and tutorial services, academic adjustments, auxiliary aids and/or student employment and placement services.
6. Vocational Rehabilitation Services	This issue covers discrimination in the provision of vocational rehabilitation services and benefits to individuals on the basis of handicap, sex, race and/or national origin.
7. Employment	This issue covers discrimination on the basis of race, national origin, sex and/or handicap in matters related to employment such as selection, promotion, compensation and termination.

Dated: December 23, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-34810 Filed 12-29-83; 8:45 am]

BILLING CODE 4000-01-M

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of closing date for institutions requesting eligibility to participate in the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs for the 1984–85 Award Year.

SUMMARY: The Secretary invites currently ineligible institutions of higher education that wish to participate in the 1984–85 award year in the "campus-based programs" authorized by Title IV of the Higher Education Act of 1965 to submit to the Secretary an instutional eligibility application form.

The campus-based programs are the National Direct Student Loan Program, the College Work-Study Program, and the Supplemental Educational Opportunity Grant Program.

(20 U.S.C. 1087aa–1087ii; 42 U.S.C. 2751–2756b; and 20 U.S.C. 1070b–1070b–3)

Closing Date for Transmittal of Applications

The closing date for transmittal of the institutional eligibility application form, "Request for Institutional Eligibility for Programs" with regard to participation in the campus-based programs in award year 1984–85 is February 3, 1984.

SUPPLEMENTARY INFORMATION: Under the three campus-based programs, the Secretary allocates funds to eligible institutions of higher education

To participate in these programs an institution of higher education must first qualify as an eligible institution. To qualify, an institution must file with the Secretary a completed "Request of Institutional Eligibility for Programs" form (ED Form 1059).

The Secretary will not allocate funds under the campus-based programs in award year 1984–85 to any currently ineligible institution unless the institution submits its eligibility application by the February 3, 1984 deadline date and the Secretary determines that the institution met the eligibility requirements by that date.

However, if the institution submits its institutional application after the closing date, the Secretary will use this application in determining the institution's eligibility to participate in the campus-based programs beginning with the 1985–86 award year, and will use the application in determining the institution's eligibility to participate in other student assistance programs under Title IV of the Higher Education Act.

The Secretary wishes to advise institutions that the institutional eligibility form "Request for Institutional Eligibility for Programs" form (ED Form 1059) should not be confused with the Fiscal Operations Report and Application to Participate form (FISAP) an (ED Form 646–1) that institutions were required to submit by October 3, 1983, in order to receive funds under the campus-based programs for the 1984–85 award year. (OMB Approval 1840–0098 Expiration date 7/85)

Applications Delivered by Mail

An application delivered by mail must be addressed to the U.S. Department of Education, Attention: EAES/OPE, 400 Maryland Avenue, SW. (Room 3030, ROB–3), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered for funds under the campus-based programs for award year 1984–85.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Eligibility and Agency Evaluation Staff (EAES), Room 3030, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. EAES will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Eastern Standard Time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Applicable Regulations

The following regulations apply to the campus-based programs:

(1) Student Assistance General Provisions, 34 CFR Part 668;

(2) National Direct Student Loan Program, 34 CFR Part 674;

(3) College Work-Study Program, 34 CFR Part 675;

(4) Supplemental Educational Opportunity Grant Program, 34 CFR Part 676.

FOR FURTHER INFORMATION CONTACT: Dr. Leslie Ross, Chief, Institutional Eligibility Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 3030, ROB–3), Washington, D.C. 20202. Telephone: (202) 245–9873.

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: December 27, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-34685 Filed 12-29-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in January 1984. 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 Chemical Task Group meeting follows:

The Chemical Task Group will hold its seventeenth meeting on Monday and Tuesday, January 9 and 10, 1984, starting at 12:00 p.m. on Monday and 8:30 a.m. on Tuesday, in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical 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 Chemical 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 Chemical 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 December 22, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-34721 Filed 12-29-83; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in January 1984. 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 Chemical Task Group meeting follows:

The Chemical Task Group will hold its eighteenth meeting on Tuesday and Wednesday, January 24 and 25, 1984, at 8:30 a.m. each day in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical Tasks 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 Chemical 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 Chemical 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 December 22, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-34723 Filed 12-29-83; 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 January 1984. 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 fifteenth meeting on Thursday, January 19, 1984, starting at 9:00 a.m., in Room 1820 of the Stouffer's Greenway Plaza Hotel, Six East Greenway Plaza, 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 December 22, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-34724 Filed 12-29-83; 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 January 1984. 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 sixteenth meeting on Tuesday, January 31, 1984, starting at 9:30 a.m., in the Camelia Room of the Stouffer's Greenway Plaza Hotel, Six East Greenway Plaza, 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 December 22, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-34722 Filed 12-29-83; 8:45 am]

BILLING CODE 6450-01-M

Conduct of Employees; Waiver Pursuant to the Department of Energy Organization Act

Section 602(a) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a)) of the Department from knowingly receiving compensation from, holding an official relation with, or having any pecuniary interest in any energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(c) in cases of exceptional hardship, or where the interest is a pension, insurance, or other similarly vested interest.

Lawrence A. Pettis is Deputy Director, Strategic Petroleum Reserve, Office of the Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness. He is a supervisory employee of the Department within the meaning of section 601(a) of the Act.

Mr. Pettis has requested a waiver of the divestiture provisions of section 602(a) on the basis of exceptional hardship because he has inherited a ⅛ royalty interest in the mineral rights in 320 acres of land in Blaine County, Oklahoma. Oil and natural gas are being produced from this property under a lease with the Superior Oil Company. Mr. Pettis' interest has been determined to be an "energy concern" interest prohibited by section 602(a).

A condition of the will of his grandparents under which Mr. Pettis acquired his interest prohibits him from selling this interest for a period of 20 years (until January 2002). Section 601(d) of the Act further prohibits Mr. Pettis from satisfying the divestiture provisions of section 602(a) by a gift of the interest to a spouse or his minor children. To comply with section 602(a), Mr. Pettis must either obtain a Secretarial waiver under section 602(c), resign his position as a supervisory employee, or give away his interest to a person or entity outside his immediate family.

I have determined that to require Mr. Pettis to divest his interest, as described above, would impose an exceptional hardship on him within the meaning of section 602(c) of the Act. Accordingly, I have granted him a waiver until January 2002; until his described interest ceases to be an energy concern interest; or until his employment with the Department terminates, whichever first occurs.

To minimize or eliminate the possibility of a conflict of interest during the term of this waiver, Mr. Pettis has been directed not to participate personally and substantially as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon his energy concern interest or on the Superior Oil Company unless his supervisor and the Counselor agree that his financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him.

Dated: December 21, 1983.

Donald Paul Hodel,

Secretary of Energy.

[FR Doc. 83-34618 Filed 12-29-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; International Atomic Energy Agency

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of the following materials:

Contract Number WC-IA-133, to the Central Control Laboratory, Nuclear Research Institute, Czechoslovak Socialist Republic, 105.7 grams of uranium enriched to 4.3% in U-235; 10 grams of uranium enriched to 1.5% in U-235; and 5 grams of uranium enriched to 2.0% in U-235.

The above materials are to be utilized in the Safeguards Analytical Laboratory Evaluation (SALE) Program. This program is designed to evaluate the capability of participating laboratories to analyze materials to be safeguarded in the nuclear fuel cycle, and to provide means by which measurement capability may be enhanced through the interchange of measurement technology.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended,

it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 23, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs

[FR Doc. 83-34617 Filed 12-29-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RM83-73-000]

El Paso Natural Gas Co.; Petition for Waiver

December 22, 1983.

Take notice that on December 15, 1983, El Paso Natural Gas Company ("El Paso"), a Delaware corporation, whose mailing address is Post Office Box 1492, El Paso, Texas, 79978, filed at Docket No. RM83-73, pursuant to Rule 207 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, a petition for waiver of § 154.38(d)(4)(v) of the Commission's Regulations as prescribed by the Final Rule issued November 21, 1983 (Order No. 349) at Docket No. RM83-73-000 so as to permit El Paso to implement said Final Rule upon filing of its semi-annual Purchased Gas Adjustment ("PGA") filing to be effective as of October 1, 1984.

El Paso states that the Final Rule amended § 154.38 of the Commission's Regulations to require that a standard form be used and certain additional information be submitted in PGA filings. The Final Rule is scheduled to go into effect on February 1, 1984, however, El Paso states it will be unable to rewrite its computer programs necessary to implement the provisions of said Final Rule prior to the filing of its next regularly scheduled PGA on or before March 1, 1984, to be effective April 1, 1984.

In order to comply with the Commission's Final Rule, El Paso will need to rewrite a significant portion of its PGA computer programs to fit the Commission's new standard filing format and to be able to merge past PGA data with current PGA data. In addition, El Paso will need to program additional data into its computer system which is currently not available to the computer. Finally, El Paso will need to run tests on its rewritten computer programs to make sure that the data is in the correct format as required by the Commission's Final Rule.

El Paso further states that it is diligently preparing these new PGA computer programs; however, the programs will not be available in time to be used in preparing El Paso's scheduled March 1, 1984 PGA filing. El Paso currently estimates that it will take four individuals, working eight hours a day, five days a week, approximately three months to prepare the new PGA computer programs with one additional month being required to test the results thereof.

Copies of the instant filing have been served upon all of El Paso's interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said petition for waiver should, on or before Jan. 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a protest or a motion to intervene in accordance with the requirements of Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) 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.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34544 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-483-002]

Colorado Interstate Gas Co.; Petition To Amend

December 27, 1983.

Take notice that on December 13, 1983, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-483-002 a petition to amend the order issued November 26, 1982, in Docket No. CP82-483-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of a tap and metering facilities necessary to establish an additional point of redelivery to Wycon Chemical Company (Wycon) under the gas transportation contract dated March 16, 1982, as amended, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

More specifically, CIG proposes to construct and operate hot taps and dual 6-inch meter runs with telemetry to be located on CIG's main line in Section 24, Township 12 North, Range 68 West, Laramie County, Wyoming, which would intersect with an 8-inch pipeline to be constructed by Wycon to Wycon's Cheyenne plant approximately 8 miles to the northeast. CIG indicates that construction of the requested facilities would permit CIG to establish an additional redelivery point under its March 16, 1982, transportation agreement with Wycon.

CIG also indicates that it would install the tap and metering facilities at an estimated cost of $148,600 and that Wycon has agreed to reimburse CIG for the facilities cost.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 19, 1984, 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. 83-34564 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-44-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 4, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-44-000 a request as supplemented

on December 15, 1983, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposed to transport natural gas on behalf of Locke Insulators, Inc. (Locke), under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport up to 1,400 dt equivalent of natural gas per day for Locke for a term of one year. The request indicate that the natural gas to be transported would be purchased from POI Energy, Inc., by Locke and would be used to displace fuel oil in Locke's Baltimore facilities. Columbia states that it would receive the natural gas at existing delivery points in Pennsylvania, Kentucky, West Virginia, and Ohio and redeliver such natural gas to Baltimore Gas and Electric Company, the distribution company serving Locke. Columbia states that the gas to be purchased by Locke involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of Sections 102, 103 and 107 of the Natural Gas Policy Act of 1978. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

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. 83-34685 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-45-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 4, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP84-45-000 a request, as supplemented on December 15, 1983, pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Vulcan Material Company, Metals Division (Vulcan), under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport up to 500 dt equivalent of natural gas per day for Vulcan for a term of one year. Columbia states that the gas to be transported would be purchased from POI Energy, Inc., by Vulcan and would be used primarily for boiler fuel in Vulcan's Baltimore, Maryland, plant. Columbia states that it would receive the gas at existing delivery points on its system in Pennsylvania, Kentucky, West Virginia, and Ohio and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving Vulcan. Columbia states that the gas to be purchased by Vulcan involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of Sections 102, 103 and 107 of the Natural Gas Policy Act of 1978. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

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. 83-34686 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-54-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 29, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-54-000 a request, as supplemented December 15, 1983, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of W. R. Grace & Co., Davison Chemical Division (W. R. Grace), under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport up to 4,500 dt equivalent of natural gas per day on behalf of W. R. Grace for a term of one year. Columbia states that the gas to be transported would be purchased from POI Energy, Inc., by W. R. Grace and would be used for boiler and process fuel at W. R. Grace's Baltimore, Maryland, plant. Columbia states that the gas to be purchased by W. R. Grace involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of Sections 102, 103, and 107 of the Natural Gas Policy Act of 1978. Columbia states that it would receive the gas at various existing delivery points in Ohio, Pennsylvania,

and West Virginia and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving W. R. Grace.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average systemwide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

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. 83-34087 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-58-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 10, 1983, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273, filed in Docket No. CP84-58-000 a request, as supplemented on December 15, 1983, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Anchor Hocking Corporation (Anchor Hocking) under authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to transport for one year up to 800 dt equivalent of natural gas per day from Delta Drilling Company (Delta) in Indiana County, Pennsylvania, to Baltimore Gas and Electric Company (BG&E) in Baltimore, Maryland. The gas purchase agreement between Delta and Anchor Hocking indicates that Columbia has released certain gas supplies of Delta. Columbia states that these supplies are subject to the ceiling price provisions of Section 102 of the Natural Gas Policy Act of 1978. It is further indicated that Anchor Hocking has purchased this released natural gas from Delta and that BG&E is the distribution company serving Anchor Hocking in Baltimore, Maryland.

For this transportation Columbia states it would charge Anchor Hocking its average system-wide storage and transmission cost, exclusive of company-use and unaccounted for gas, currently 40.11 cents per dt. In addition, Columbia would retain 2.85 percent of the gas delivered to it for company use and unaccounted for gas.

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. 83-34088 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-59-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 10, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-59-000 a request, as supplemented on December 15, 1983, pursuant to §§ 157.205 and 157.209 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 18 CFR 157.209) that Columbia proposes to transport natural gas on behalf of Koppers Company, Inc., Piston Ring and Seal Division (Koppers), under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport up to 147 dt equivalent of natural gas per day, less retainage, for Koppers for a term of one year effective the date deliveries of gas commence hereunder. Columbia states that the gas to be transported hereunder would be purchased from POI Energy, Inc., by Koppers and would be used to provide process steam in lieu of No. 6 fuel oil in Koppers' plant. Columbia indicates that the gas to be purchased by Koppers involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of Sections 102, 103, and 107 of the Natural Gas Policy Act of 1978. It is further stated that Columbia would receive the gas at existing delivery points in various counties in Ohio, West Virginia, and Pennsylvania and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving Koppers. Columbia also states that it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission, and gathering charge, currently 44.93 cents per dt, exclusive of company use and unaccounted for gas, depending on whether Columbia's gathering facilities are involved. It is further stated that Columba would retain for company-use and unaccounted-for gas a percentage of the gas delivered hereunder as reflected in Columbia's rate filings; this percentage is currently 2.85 percent.

Any person or the Commission's staff may, within 46 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. 83-34690 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-88-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 22, 1983, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 24325-1273, filed in Docket No. CP84-88-000 a request, as supplemented on December 15, 1983, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Stolle Corporation (Stolle) under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to transport for one year up to 2,000 dt equivalent of natural gas per day on behalf of Stolle. Columbia would receive gas from POI Energy, Inc. (POI), at existing points of receipt on Columbia's system and redeliver to The Dayton Power and Light Company for ultimate delivery to Stolle, it is explained. Columbia states that the gas purchase agreement between Stolle and POI involve certain gas supplies released by Columbia. Columbia states that these supplies are subject to the ceiling price provisions of Sections 102, 103 and 107 of the Natural Gas Policy Act of 1978.

Depending upon whether gathering facilities are involved, Columbia states that it would charge either (1) Columbia's average system-wide storage and transmission costs, exclusive of company-use and unaccounted-for gas, or (2) Columbia's average system-wide storage, transmission and gathering costs, exclusive of company-use and unaccounted-for gas. It is stated that the storage and transmission charge is currently 40.11 cents per dt and the storage, transmission and gathering charge is 44.93 cents per dt. In addition, Columbia proposes to retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas.

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. 83-34691 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-89-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 23, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-89-000 a request, as supplemented December 15, 1983, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of SCM Corporation (SCM) under the authorization issued in Docket No. 83-76-000 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.

Specifically, Columbia proposes to transport up to 12,000 dt equivalent of natural gas per day for SCM for a term of one year. Columbia states that the gas to be transported would be purchased from Adobe Oil and Gas Corporation (Adobe) by SCM and would be used for boiler fuel, sulfate process and chloride process in SCM's Baltimore, Maryland, plant. Columbia states that it would receive the gas at existing delivery points in Indiana County, Pennsylvania, and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving SCM. Columbia further states that it has released certain gas supplies of Adobe's which SCM has purchased from Adobe. Columbia states that these supplies are subject to the ceiling price provisions of Sections 102, 103 and 108 of the Natural Gas Policy Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

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. 83-34692 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-91-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 23, 1983 Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-91-000 a request, as supplemented on December 15, 1983, pursuant to § 157.205 of the Commission's Regualtions under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Allied Corporation (Allied) under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport up to 2,500 dt equivalent of natural gas per day for Allied for a term

of one year. Columbia states that the gas to be transported would be purchased from Carl E. Smith Petroleum, Inc. (Carl E. Smith), by Allied and would be used primarily for boiler fuel in Allied's Ironton, Ohio, tar plant. Columbia states that it would receive the gas at existing delivery points on its system and redeliver such gas to Columbia Gas of Ohio, Inc., for ultimate delivery to Allied. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission, and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Columbia states that it has released certain gas supplies of Carl E. Smith. Columbia further states that these supplies are subject to the ceiling price provisions of Section 103, 107, 108, and 109 of the Natural Gas Policy Act of 1978.

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. 83-34693 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-92-000]

Columbia Gas Transmission Corp., Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 23, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP84-92-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of North Metal & Chemical Company (North) under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport up to 150 dt equivalent of natural gas per day for North for a term of one year. Columbia states that the gas to be transported would be purchased from G&G Gas, Inc. (G&G), in Clarion County, Pennsylvania, by North and would be used as boiler fuel in North's York, Pennsylvania, plant.

The gas purchase agreement between G&G and North indicates tht Columbia has released certain gas supplies of G&G. Columbia states that these supplies are subject to the ceiling price provisions of Section 103 of the Natural Gas Policy Act of 1978. It is further indicated that North has purchased this released gas from G&G. Columbia states that it would receive the gas at an existing delivery point on its Line 4010 in Clarion County, Pennsylvania, and redeliver the gas to Columbia Gas of Pennsylvania, Inc. (CPA), the distribution subsidiary of Columbia serving North, near York, Pennsylvania. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, (2) its average system-wide storage, transmission and gathering charge currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

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. 83-34694 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-102-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 29, 1983, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273, filed in Docket No. CP84-102-000 a request, as supplemented on December 15, 1983, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of G&M Finishing, Inc. (G&M), under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport for one year up to 205 dt equivalent of natural gas per day from Morgan-Pennington Inc. (M-P) in the Glenmont/Nashville area of Holmes County, Ohio, to UGI Corporation (UGI) in Ephrata, Pennsylvania. The gas purchased agreement between M-P and G&M indicates that Columbia has released certain gas supplies of M-P. Columbia states that these supplies are subject to the ceiling price provisions of Section 103 of the Natural Gas Policy Act of 1978. It is further indicated that G&M has purchased this released natural gas from M-P and that UGI is the distribution company serving G&M in Ephrata, Pennsylvania.

For this transportation, Columbia states that it would charge G&M its average system-wide storage, transmission, and gathering cost, exclusive of company-use and unaccounted-for gas, currently 44.93 cents per dt. In addition, Columbia would retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas.

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. 83-34695 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-103-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 29, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-103-000 a request, as supplemented on December 15, 1983, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Goodyear Tire and Rubber Company (Goodyear), under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport up to 850 dt equivalent of natural gas per day for Goodyear for a term of one year. Columbia states that the gas to be transported would be purchased from Victory Development Company (Victory), by Goodyear and would be used primarily for boiler fuel in Goodyear's Marysville, Ohio, plant. Columbia states that it would receive the gas at existing points of receipt on its system and redeliver to Columbia Gas of Ohio, Inc. for ultimate delivery to Goodyear at its plant in Marysville, Ohio. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

The gas purchase agreement between Victory and Goodyear indicates that Columbia has released certain gas supplies of Victory's. Columbia states that these supplies are subject to the ceiling price provisions of Sections 102 and 103 of the Natural Gas Policy Act 1978.

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 therefore, 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. 83-34667 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-104-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 29, 1983, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273, filed in Docket No. CP84-104-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of GTE Products, Inc. (GTE), under authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to transport for one year up to 3,700 dt equivalent of natural gas per day for GTE. It is indicated that GTE has purchased natural gas from Global Petroleum Company, Inc., and that Columbia would receive the gas from Delta Natural Gas Company in Clay County, Kentucky, and deliver equivalent volumes to Columbia Gas of Kentucky, Inc. (CKY), near Lexington, Kentucky. It is further indicated that CKY is the distribution company serving GTE in Versailles, Kentucky, and that the gas would be used for boiler fuel.

For this transportation Columbia states it would charge GTE its average system-wide storage and transmission cost, exclusive of company-use and unaccounted-for gas, currently 40.11 cents per dt. In addition, Columbia would retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas. It is also stated that all gas delivered to Columbia would be subject to the General R&D Funding Unit of the Gas Research Institute, currently 0.70 cent per dt.

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 National 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 National Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34666 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP 84-57-000]

Columbia Transmission Corp.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on November 10, 1983, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia, filed in Docket No. CP 84-57-000 a request, as supplemented on December 15, 1983, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport for natural gas on behalf of Mobay Chemical Corporation (Mobay) under authorization issued in Docket No. CP 84-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to transport for one year up to 700 dt equivalent of natural gas per day for various existing points of receipt on its system to Baltimore Gas and Electric Company in Baltimore, Maryland, for ultimate delivery to Mobay.

For this transportion Columbia states it would charge Mobay its average system-wide storage, transmission, and gathering costs, currently 44.93 cents per dt, or its storage and transmission costs, currently 40.11 cents per dt, whichever is applicable, exclusive of company-use and unaccounted-for gas. In addition, Columbia indicates that it would retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas. Columbia states that the gas to be transported would be purchased from POI Energy, Inc.

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. 83-34688 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-126-000]

Consolidated Gas Supply Corp.; Application

December 27, 1983.

Take notice that on December 12, 1983, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP84-126-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a limited-term off-system sale of gas for resale to Consolidated Edison Company of New York, Inc. (Con Edison), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell for resale up to 150,000 dt equivalent of natural gas per day on an interruptible basis to Con Edison during the 1983-84 winter heating season (from commencement of deliveries through March 31, 1984). Con Edison has informed Applicant that it needs the natural gas from the proposed sale to avoid curtailment of deliveries to its customers during the coming winter.

Applicant states that the subject natural gas, from general system supply, is surplus to the needs of Applicant's present customers throughout the term of the proposed sale. Applicant explains it would deliver the gas for the account of Con Edison at existing points of interconnection between Applicant's facilities and those of Transcontinental Gas Pipe Line Corporation, Texas Eastern Transmission Corporation, or Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Applicant proposes to sell the gas to Con Edison at a rate equivalent to the calculated 100-percent load factor rate for Applicant's Rate Schedule RQ of its FERC Gas Tariff. Applicant's rate treatment of the sales quantities and revenues attributable to the proposed sale will be governed by the terms of the stipulation and agreement approved by the Commission on March 2, 1983, in Docket No. RP82-115.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1984, 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 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. 83-34689 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP66-110-031, et al.]

Midwestern Gas Transmission Co., and Great Lakes Gas Transmission Co.; Petition To Amend

December 27, 1983.

Take notice that on December 1, 1983, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, and Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket Nos. CP66-110-031, *et al.*, a joint petition to amend further the orders issued June 20, 1967,[1] as amended, in these dockets pursuant to Sections 3 and 7(c) of the Natural Gas Act, so as to extend to October 31, 1984, Petitioners' authorization to import, transport and sell on an interruptible basis the remainder of the 132,000,000 Mcf of natural gas previously authorized to be imported and sold by October 31, 1983, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners submit that by order issued September 25, 1979, as amended, Midwestern was authorized in Docket No. CP66-121 to import 114,000,000 Mcf of gas with a daily volume limit of 600,000 Mcf at two points on the United States-Canada border, near Emerson, Manitoba, and near Niagara Falls, New York, that in Docket No. CP66-112 Great Lakes was authorized to sell 18,000,000 Mcf of gas to be imported by Great Lakes to Midwestern at the Emerson interconnection pursuant to a gas purchase contract dated November 17, 1978, as amended, and that in Docket No. CP79-161 Midwestern was authorized to sell such imported gas to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Northern Natural Gas Company,

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Division of InterNorth, Inc. (Northern), and Natural Gas Pipeline Company of America (Natural).

It is stated that since the September 25, 1979, order the Petitioners have imported and sold approximately 67,000,000 Mcf of the 132,000,000 Mcf of gas authorized. Petitioners assert that the remaining 65,000,000 Mcf of the total volume authorized cannot be imported by the authorized termination date of October 31, 1983. It is therefore requested that the above-described importation, sale, and transportation of natural gas authorizations be extended for a one-year period to October 31, 1984. Midwestern further requests that its gas resale arrangements with Tennessee, Northern, and Natural be amended to permit the continuation of the sales until October 3, 1984.

It is further stated that the Petitioners are willing to have this authorization conditioned as it was conditioned by the Commission order issued December 27, 1982, which limited the imported volumes as follows:

> To limit the sale of subject gas solely to sales required to avoid operating problems caused by freeze-offs or other interruptions to the receipt of natural gas from normal sources of natural gas supply, an outage of facilities, or an unusually heavy winter demand for services which could not be met from the regular sources of natural gas supply or due to capacity limitations on some segment of the pipeline system and * * * to those times when less expensive gas is not available from the cusomters' traditional supply services.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 19, 1984, 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 Proeedure (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. 83-34071 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-202-004 and CP75-205-003]

Natural Gas Pipeline Company of America, and Michigan Wisconsin Pipe Line Co.; Petition to Amend

December 27, 1983.

Take notice that on December 6, 1983, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP75-202-004 and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-205-003, a joint petition to amend the order issued July 3, 1975, [1] as amended, in Docket Nos. CP75-202 and CP75-205 pursuant to Section 7 of the Natural Gas Act so as to authorize the exchange of natural gas at new points of delivery in Caddo and Woodward Counties, Oklahoma, and to grant blanket authorization to add or delete points of delivery and/or balancing points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that pursuant to a January 25, 1983, amendment to the gas exchange agreement, Natural and Michigan Wisconsin have agreed to add four additional points of delivery in Caddo and Woodward Counties, Oklahoma. Michigan Wisconsin proposes to receive up to 1,000 Mcf of gas per day for Natural's account at the Moore No. 1-28 Well in Caddo County, Oklahoma. Natural proposes to receive for Michigan Wisconsin's account up to 500 Mcf of gas per day at the Ezzell Well, 100 Mcf of gas per day at Shoreline No. 2 Well and 700 Mcf of gas per day at the Ruth Shuck Unit, all located in Woodward County, Oklahoma. Natural proposes to retain 2.6 percent of the volumes received at these three points in order to account for compressor fuel used.

In addition Natural and Michigan Wisconsin request blanket authorization to add or delete points of delivery and/or balancing points in an area of interest consisting of Hansford, Ochiltree and Wheeler Counties, Texas, and Beaver, Beckham, Caddo, Custer, Dewey, Harper, Roger Mills, Texas, Washita and Woodward Counties, Oklahoma.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 19, 1984, 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. 83-34072 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP84-129-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on December 13, 1983, Northern Natural Gas Company, Division of InterNorth, Inc., (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-129-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Northern proposes to transport natural gas on behalf of Northern Gas Products Comapny (NGP) under the authorization issued in Docket No. CP82-401-000 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.

Northern states the proposed transportation service would be performed pursuant to a transportation agreement dated September 28, 1983, as amended. The transportation agreement, it is said, provides for the transportation of 7,000 Mcf of natural gas per day, on behalf of NGP, from Beaver County, Oklahoma, to Ellsworth County, Kansas.

Northern proposes to provide this transportation service for a term not to extend beyond June 30, 1985. Northern states further that it would charge NGP a transportation rate of 9.84 cents per Mcf of gas delivered to NGP.

Northern submits that the subject gas would be purchased by NGP from Prairie States Gas Company and would be used in the operation of NGP's processing plants near Bushton, Kansas.

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. 83-34673 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-83-000]

Northwest Central Pipeline Corp.; Application

December 27, 1983.

Take notice that on November 18, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP84-83-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for direct sale service to L. D. Drilling, Inc., for lease operations in Barton County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest Central proposes to tap its 2-inch pipeline and construct measuring, regulating, and appurtenant facilities in Barton County, Kansas, for the sale of natural gas to L. D. Drilling, Inc., for lease operations in Barton County, Kansas. The estimated cost of the proposed facilities is $4,600 and would be paid from treasury cash, it is stated.

It is asserted that the proposed facilities would enable Northwest Central to make a direct interruptible sale of 11 Mcf of natural gas per day and 4,100 Mcf annually to L. D. Drilling, Inc., at a sale price of $3.3858 per Mcf. The producer, in turn, would utilize the gas for leasing operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1984, 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 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34674 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-113-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on December 1, 1983, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-113-000 pursuant to Section 157.205 and 157.209 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 18 CFR 157.209) that Panhandle proposes to transport natural gas for eligible end-users under the authorization issued in Docket No. CP83-83-000 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.

Panhandle proposes to transport up to 25,000 Mcf of gas per day and up to 8,000,000 Mcf of gas per year on behalf of Indiana Gas Company (Indiana Gas) for the account of seventeen end-user customers.[1] It is asserted that Panhandle would receive gas from the participating producers in the states of Texas, Oklahoma, Wyoming, Colorado, and Kansas and redeliver the natural gas to Indiana Gas at an existing interconnection in Grant County, Indiana, for further delivery to the seventeen end-user customers. It is further stated that Panhandle's transportation charge would be based upon Panhandle's IT rate schedule and that there is no 5-cent AIC charge proposed.

The end-user customers would use the gas transported for boiler use as an alternative for residual oil, it is explained. Panhandle states that no new facilities are needed to effectuate the proposed transportation which services are now being performed pursuant to Section 157.209(e)(1) and would continue for ninety days after issuance of a certificate approving Panhandle's transportation agreement with the Pan Mark Gas Company in Docket No. CP83-333, *et al.*; if no such certificate is granted service would terminate at 11:59 p.m. on June 30, 1985, or upon thirty-day written notice whichever occurs first.

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. 83-34675 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

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[1] The following companies have been listed as the end-user customers: Chrysler Corp.; New Castle Machine & Forge; RCA Corp.; Frito-Lay, Inc.; General Foods Manufacturing Co.; Alton Packaging Corp.; Ralston Purina Co.; EMGE Packing Co., Inc.; General Motors Corp., Chevrolet Motor Div.; Warner Gear Div., Borg Warner; St. Joe Container Co.; Sheller Globe Corp.; A. E. Staley Manufacturing Co.; Foster Forbes Glass Civ.-NCC; Kerr Glass Manufacturing Corp.; General Tire and Rubber Co.; Chevepak Corp., Mill Div.; and A. E. Staley Corp.

[Docket No. CP84-115-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

December 27, 1983

Take notice that on December 5, 1983, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77701, filed in Docket No. CP84-115-000, a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Panhandle proposes to transport natural gas for KOGAF Enterpriser (KOGAF) for the account of two eligible end-user customers [1] under the authorization issued in Docket No. CP83-83-000 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.

Panhandle proposes to transport up to 8,000 Mcf of gas per day or up to 2,300,000 Mcf of gas per year. It is stated that Panhandle will accept deliveries from participating producers located in the states of Oklahoma and Texas and deliver the gas to Kokomo Gas and Fuel Company (Kokomo), an Indiana distribution company and parent company of KOGAF, at an existing interconnection located in Tipton County, Indiana. It is asserted Kokomo would deliver the transported volumes to the end-user customers. Panhandle propose to assess a transportation charge based on its ITs rate schedule; there will be no AIC charge associated with the proposed service.

It is asserted that the gas transported would be utilized by the end-users as boiler fuel as an alternative for residual oil. It is further stated that no new facilities are needed to effectuate the proposed service which was initiated pursuant to § 157.209(e)(1) and scheduled to terminate ninety days after issuance of a certificate authorizing Panhandle's transportation agreement with Pan Mark Gas Company in Docket No. CP83-333, *et al.* It is explained that if no such certificate is issued termination of the proposed service would be at 11:59 on June 30, 1985, or upon thirty-day written notice, whichever occurs first.

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 § 1576.205 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. 83-34676 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[1] The two end-user customers are Continental Steel Corporation and Chrysler Corporation.

[Docket No. G-7004-022]

Pennzoil Co.; Ninth Amendment to Application for Immediate Clarification or Abandonment Authorization

December 23, 1983.

Take notice that on December 20, 1983, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001, filed in Docket No. G-7004-022 an application for abandonment authorization for as much gas as is required to allow sales of gas to five 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 Ninth Amendment to its original application, Pennzoil incorporates herein and renews each of the requests for clarification or abandonment authorization set forth in its original 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 upon 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, December 30, 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-7004-022.

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. 83-34683 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-125-000]

Southern Natural Gas Co.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on December 12, 1983, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP84-125-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Southern proposes to construct and operate certain pipeline, measurement and receiving facilities under the authorization issued to Southern in Docket No. CP82-406-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that it has acquired the right to purchase certain quantities of gas to be produced by Exxon Corporation (Exxon) from Block 265, Main Pass Area, offshore Louisiana, pursuant to a gas purchase agreement between Exxon and Southern, dated July

1, 1983. It is further stated that to connect the quantities of gas to be purchased by Southern in Main Pass Block 265 to Southern's existing pipeline facilities, Southern proposes to construct and operate a measurement and receiving station on Exxon's production platform in Main Pass Block 265 and approximately 14.75 miles of 8-inch pipeline extending from the production platform to a sub-sea point of interconnection in Main Pass Block 290 with Southern's 24-inch pipeline. Southern asserts that the pipeline facilities would be designed with a maximum daily capacity of 12,000 Mcf.

It is estimated that the cost of the proposed facilities would be approximately $8,004,345. Southern avers that such facilities would be financed initially from short-term loans with permanent financing to be arranged at a later date.

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. 83-34677 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-50-009]

Trunkline Gas Co.; Petition

December 27, 1983.

Take notice that on December 1, 1983, Trunkline Gas Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP78-50-009 a petition to amend the Commission by order issued September 18, 1978, in Docket No. CP78-50 pursuant to Section 7 of the Natural Gas Act so as to authorize the reduction of volumes of natural gas Petitioner transports for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that by the Commission's order of September 18, 1978, Petitioner received authorization to transport 21,000 Mcf of natural gas per day for Panhandle on a firm basis from a point of receipt in High Island Block A-370, offshore Louisiana, to a point of delivery in Tuscola, Illinois. Petitioner proposes to decrease the transportation volume from 21,000 Mcf per day to 10,500 Mcf per day due to a decline in supply of natural gas available to Panhandle from the High Island area. Petitioner states that as a result of the decrease in transported volumes, Petitioner would reduce its monthly charge to Panhandle from $304,600 to $152,300.

Any person desired to be heard or to make any protest with reference to said petition to amend should on or before January 19, 1984, 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. 83-34678 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-117-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

December 27, 1983.

Take notice that on December 5, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP84-117-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas (18 CFR 157.205) that United proposes to construct and operate a sales tap under the authorization issued in Docket No. CP83-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, United proposes to construct and operate a sales tap in St. Mary Parish, Louisiana, necessary to provide an additional point of delivery to its customer, Entex, Inc. (Entex). Entex, in turn, would render natural gas service to the State of Louisiana Department of Transportation and Development, it is stated. United has certificate authorization to make the current sale to Entex in Docket No. CP71-89, it is further stated. United states that the sale through the proposed tap would be made under Rate Schedule DG-S. A peak day volume of 4 Mcf and an annual volume of 250 Mcf to be used for office heating would be sold through the proposed tap, United avers. Since no increase in Entex's contractual MDQ or its entitlements under United's curtailment plan would occur as a result of the proposal, United states that the volumes delivered through the proposed sales tap would have no significant affect on existing service requirements either with respect to peak day and/or annual gas deliveries. Further, United states that it has sufficient capacity to provide the proposed service without detriment or disadvantage to its other 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. 83-34679 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-83-000]

Small Power Producers; Hidden Valley Investors—Escondido Athletic Club East; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 23, 1983.

On December 5, 1983, Hidden Valley Investors, (Applicant) of c/o Escondido Athletic Club East, 130 East Lincoln, Escondido, California 92025, 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 130 East Lincoln, Escondido, California. The facility will consist of a reciprocating engine, generator, and waste heat recovery equipment. The useful thermal energy output will be used for swimming pool heating, jacuzzi heating, or pre-heating of domestic hot water. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 60 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. 83-34681 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-84-000]

Small Powers Producers; Hidden Valley Investors—Escondido Athletic Club West; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 23, 1983.

On December 6, 1983, Hidden Valley Investors, (Applicant) of c/o Escondido Athletic Club West, 130 West Woodward Avenue, Escondido, California 92025, 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 130 West Woodward Avenue, Escondido, California. The facility will consist of a Reciprocating engine, generator, and waste heat recovery equipment. The useful thermal energy output will be used for swimming pool heating, jacuzzi heating, or pre-heating of domestic hot water. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 60 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. 83-34682 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-71-000]

Small Power Producers; Jewell Coal and Coke Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 27, 1983.

On November 28, 1983, Jewell Coal and Coke Co., (Applicant) P. O. Box 10388, 4711 Old Kingston Pike, Knoxville, Tennessee 37939, 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 bottoming-cycle cogeneration facility will be located in Buchanan County, Virginia. Two waste heat recovery boilers and condensing turbine generators will use the reject heat emerging from metallurgical coke ovens. The electric power production capacity of the facility will be 60,000 kilowatts. The primary energy source will be coal.

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. 83-34670 Filed 12-29-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures and Solitation of Comments

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures it intends to follow in conducting fact-finding to determine the impact of overcharges found to have occurred in *The Department of Energy Stripper Well Exemption Litigation*, No. MDL 378 (D. Kan.).

DATES AND ADDRESSES: Comments must be postmarked no later than 60 days from the date of publication of this Notice in the **Federal Register** and should be addressed to: Marcia B. Proctor, Chief, Docket and Publications Branch, Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-2094 (Mann); 252-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION:

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Refiners' National Average Prices for Gasoline—Appendix

On September 13, 1983, United States District Judge Frank G. Theis referred the remedy stage of The Department of Energy Stripper Well Exemption Litigation, No. MDL 378 (D. Kan.), to the Office of Hearings and Appeals (OHA) of the Department of Energy for fact-finding to try to determine who bore the impact of overcharges at issue in that litigation and in what amounts. The purpose of this Notice is to inform the parties and interested members of the public of the preliminary views of the Office of Hearings and Appeals and to solicit their comments.

This Notice also sets forth an outline of procedures that the Office of Hearings and Appeals intends to follow during the course of the fact-finding. These procedures are based on the Special Refund regulations of the Department of Energy codified at 10 C.F.R. Part 205, Subpart V. Comments on this Notice may be filed with the Office of Hearings and Appeals within 60 days of publication of this Notice in the **Federal Register.** After comments are received and reviewed, we anticipate that a hearing for the purpose of oral argument, or an evidentiary hearing if necessary, will be scheduled. All interested parties will have an opportunity to participate in any hearing held. After oral argument a Proposed Decision will be issued setting forth our tentative conclusions concerning all of the issues present in this proceeding. Interested parties will have an opportunity to submit comments on the Proposed Decision before a final determination in this matter is issued.

I. Background

The Department of Energy Stripper Well Exemption Litigation began as a challenge by a number of crude oil producers to certain crude oil price regulations. If the position of the producers had been sustained, they would have been permitted to certify certain crude oil as stripper well crude oil and would have been entitled to receive significantly higher prices for that crude oil. If the agency's position had been sustained, producers would not have been permitted to certify the crude oil as stripper well crude oil. At an initial stage of the litigation, the District Court enjoined enforcement of those regulations, but required the crude oil producers to deposit into escrow the difference between the higher price they received and the lower price they would have received if the agency's position were enforced. As of October 31, 1982, the escrow fund, including interest, contained over one billion dollars.

The issue of the validity of the agency's position was settled in *In re The Department of Energy Stripper Well Exemption Litigation*, 690 F.2d 1375 (Temp. Emer. Ct. App. 1982), *cert. denied*, 103 S. Ct. 763 (1983). In that decision the Temporary Emergency Court of Appeals upheld the agency's position and directed that the District Court enter judgment in favor of the DOE. As the District Court noted in its September 13 memorandum opinion,

> The effect of TECA's decision is to declare the funds deposited in escrow to be overcharges received due to violations of the petroleum price regulations. The remaining task is the appropriate dispensation of the escrowed funds * * *.

In re The Department of Energy Stripper Well Exemption Litigation, Fed. Energy Guidelines ¶ 26,445, at 29,305. That Court then went on to reject arguments advanced by various refiners that only first purchasers of the crude oil involved, or participants in the Crude Oil Entitlements Program, should be permitted to obtain refunds from the escrow fund. Instead, the Court referred the case to the OHA for fact-finding pursuant to its regulatory process to try to determine who bore the impact of the overcharges and in what amounts. *Id.* at 29,312–13. The Court stated that it would "also welcome the views of the OHA on how restitution can best be achieved in this case." *Id.* at 29,312. Finally, the Court ordered the Office of Hearings and Appeals to make an interim report to the Court within six months of the Court's September 13 order and a final report within one year. *Id.* at 29,313.

This Notice establishes a framework for performing the mission assigned to the OHA by the Court. In attempting to determine who bore the impact of the overcharges involved in this proceeding, we start from the fact that the overcharges were caused by producers of certain crude oil changing the certification (*e.g.*, lower tier, upper tier, stripper) of that crude oil. The crude oil involved was ultimately sold to refiners and made into petroleum products. Some of those products were sold directly to ultimate consumers. Most of the products, however, passed from the refiners to users down through a multi-level petroleum distribution system. Some were sold to firms who operated at the wholesale level, usually referred to as jobbers. Some were sold directly to retailers. Ultimately, however, all of the products refined from the crude oil involved were pruchased by consumers.

Injury for these purposes occurred when the increased costs were absorbed rather than passed on to the next level of distribution. To the extent crude oil overcharges were not absorbed by refiners or resellers, they were borne by large and small consumers of petroleum products in the United States. Conversely, to the extent that any portion of the crude oil cost increases was absorbed by refiners, they had no impact upon entities downstream in the distribution chain. Consequently, the first critical issue here involves determining, if possible, the extent to which domestic refiners were likely able to pass through the overcharges to downstream purchasers in the form of higher prices. To that extent, other entities in the distribution chain (*e.g.*, resellers and consumers) sustained the impact of the overcharges and, if they can be identified, must receive a share of the funds in the escrow account. Subsequent critical issues involve analyzing the extent to which each subsequent level of distribution (*e.g.*, jobbers and retailers) were likely to have passed on the increased costs associated with these crude oil miscertifications. To address these questions in the most logical and efficient way, we have decided to divide the fact-finding inquiry into three separate parts so we may focus on the passthrough issue at the three different distribution levels: (1) Refiners, (2) resellers (*i.e.* jobbers and retailers), and (3) consumers. We request comments on whether the fact-finding inquiry should be divided into more parts, *e.g.*, whether jobbers and retailers should be treated separately, to achieve a more accurate result.

Assuming that we can determine the extent to which the increased crude oil costs resulting from crude oil miscertifications were absorbed at each of the distribution chain, we must separately consider what restitutionary mechanisms should be used for making refunds at each level in the petroleum products distribution chain. As noted previously, the Court has requested us to express our "views * * * on how restitution can best be achieved in this case." *id.* at 29,312. The practicality of different refund distribution mechanisms must be explored to determine how best to achieve restitution. We therefore view the process of identifying and evaluating possible refund mechanisms as an important part of our fact-finding mission. Like the inquiry into the issue of passthrough, the consideration of

possible refund mechanisms will focus separately on each of the three levels in the distribution system: (1) Refiners, (2) resellers, and (3) consumers. Commenters should be careful to address these issues separately.

II. Overcharges Due to Crude Oil Miscertifications

The central issue in this proceeding concerns the indentity of groups or persons who were injured as a result of miscertifications of crude oil. There are many ways of analyzing this issue. Some analytical methodologies have been suggested in special refund proceedings currently pending before the Office of Hearings and Appeals. Others have been adopted in judicial proceedings. None of these theories purports to isolate and trace particular overcharges through the distribution chain, and it is our tentative conclusion, based upon our knowledge of the subject, that such tracing would be impossible. We will describe a number of these analytical theories so that parties interested in the current fact-finding proceeding will have a better understanding of our perception of the issues involved. We caution that the methods which have been advanced in those proceedings are only suggestions as to how to measure the impact of crude oil miscertifications. None has been adopted at this time. Indeed, many of these theories are contradictory. Other methods of measuring the impact of crude oil miscertifications may exist and may be more appropriate, and we invite comments on these questions.

First, however, we must outline the Crude Oil Entitlements Program as it may have affected the issues present in this proceeding. Between November 1974 through the elimination of federal controls on crude oil in January 1981, the DOE's Crude Oil Entitlements Program operated to produce relative equalization of costs of crude oil for domestic refiners. Because of the way the program was set up, it also had the effect of dispersing overcharges resulting from miscertifications of crude oil throughout the crude oil refining industry. In brief, it worked as follows: The Entitlements Program was a part of the comprehensive program administered by the DOE to control prices and to allocate crude oil and refined petroleum products. Under its provisions, each eligible refiner was required to report on a monthly basis its deemed old oil receipts and the volume of its crude oil runs to stills to the Economic Regulatory Administration (ERA) of the Department of Energy. From this information the ERA computed the ratio of "old" oil receipts (after certain adjustments) to total crude oil runs to stills. Through the publication each month of an Entitlements Notice, each eligible refiner was issued a number of entitlements generally equal to the national ratio of access to old crude oil times its crude oil runs to stills. 10 CFR 211.67(a)(1). If the number of entitlements issued to a refiner in a month was less than the number of barrels of demmed old oil it reported in its receipts, the refiner was required to purchase entitlements. Conversely, if the number of entitlements issued was greater than its adjusted deemed old oil receipts, the refiner received benefits through the sale of entitlements to compensate for its less-than-average access to price-controlled oil. 10 CFR 211.67(b)(1) and 211.678(c).

The general effect of miscertifications of crude oil (*i.e.* certifying price-controlled crude oil as stripper well crude oil) on the Entitlements Program has been noted and discussed at length by the Temporary Emergency Court of Appeals (TECA) and by the DOE in several previous decisions. *See, e.g., Union Oil Co. v. DOE*, 688 F.2d 797, 802 (Temp. Emer. Ct. App. 1982); *Office of Enforcement*, 9 DOE ¶ 82,553 (1982) (hereinafter cited as *Adams*); *Office of Enforcement*, 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*); *Getty Oil Company*, 1 DOE ¶ 80,102 (1977). In *Alkek*, for example, it was stated that:

> Because of the manner in which the Entitlements Program operated, the effects of the miscertifications were spread among all domestic refiners. Miscertifications caused price-controlled crude oil to disappear. This disappearance caused the volume of oil oil to be distributed through the Entitlements Program to decline and caused the DOSR [National Domestic Crude Oil Supply Ratio] to be reduced. Thus, refiners who included more than the national average percentage of price-controlled oil in their crude oil receipts and runs to stills had to purchase a *greater* number of entitlements. Similarly, refiners with less than the national average percentage of price-controlled crude oil had *fewer* entitlements to sell. As a result, every refiner's cost of crude oil was increased. Thus, all refiners were affected by the alleged miscertification violations involved in the Consent Orders.

Alkek at 85,133 (citations omitted). These cost increases were treated by refiners exactly like other crude oil cost increases (*e.g.*, an OPEC price increase or an increase in a domestic posting for crude oil). To the extent they could increase their prices for refined petroleum products to reflect these cost increases, refiners were able to shift the effects of these costs increases to their customers. As a result, refiners were in a position to shift the injurious effects of the alleged regulatory violations from themselves to their customers. *Tenneco Oil Company/Plateau, Inc.*, 10 DOE ¶ 85,015 (1982). If these cost increases were entirely passed through by a refiner, it incurred no injury as a result of miscertifications of crude oil. If the passthrough were less than complete, that refiner would likely have incurred some injury.

The foregoing discussion leads to the conclusion that because of the operation of the Entitlements Program, the impact of the reduction of the national supply of price-controlled crude oil resulting from miscertifications of crude oil was dispersed in the first instance to all participants in the Entitlements Program. A refiner which purchased and paid an increased amount for miscertified crude oil received additional entitlements through the Entitlements Program. These entitlements were then sold to recoup the difference between the higher price paid for the crude oil and the price for old oil. In this manner, the impact of the miscertifications was shifted from direct purchasers of the crude oil involved to participants in the Entitlements Program. Consequently, the post-entitlements acquisition cost of crude oil increased by the same amount per barrel for every domestic refiner.

A. Impact on Refiners

As stated previously, there are a number of analytic methods that have been suggested for attempting to determine who bore the impact of crude oil miscertifications. We will set forth four alternatives that may be of use in this proceeding. It should be noted that none of these methods attempts to trace with any precision the impact of the crude oil miscertifications. Rather, they impute a certain amount of injury to different classes of persons that may have suffered as a result of the crude oil miscertifications. We invite comments on the appropriateness of each of these methods and on other possible ways of analyzing the issues present.

i. *The Court's Approach in the Hawkins Field Litigation*

In *United States v. Exxon Corporation*, 561 F. Supp. 816 (D.D.C. 1983), the court dealt with the issue of the impact of crude oil miscertifications. In that case the court found that Exxon had caused overcharges in sales of crude oil which it produced from the Hawkins Field in Texas by approximately $900 million, and that the oil had been miscertified to the Entitlements Program. The court noted that the Entitlements Program "spread the burden of Exxon's overcharges

among all sectors of the petroleum industry, all regions, and all consumers." *Id.* at 852. In determining who bore the economic injury associated with the crude oil miscertifications, the court recognized that the price regulations applicable to refiners, product resellers and retailers allowed them to pass through the cost increases associated with the crude oil miscertifications to purchasers of refined products. *Id.* at 853. In fashioning an equitable remedy, Judge Flannery found that the "broad scattering of the ill effects of [crude oil miscertifications] renders impossible the tracing of the overcharges to their ultimate victims and the calculation of the precise damages suffered by each." *Id.*

The court rejected the remedy advanced by Exxon that the funds should be paid to the first purchasers of the crude oil involved after the DOE proves the specific damages suffered by each. *Id.* Exercising his broad discretion, Judge Flannery ordered Exxon to deposit the amount of overcharges plus interest into the U.S. Treasury. The judge further ordered that the funds be remitted to state governments for use in energy conservation programs. *Id.* at 856–57. If our preliminary conclusion in this proceeding—that it is impossible to isolate and trace these particular overcharges associated with the crude oil miscertifications through the distribution chain—is adopted, this analysis could be used in the present proceeding. *See generally Getty Oil Co. v. DOE*, 569 F. Supp. 1204 (D. Del. 1983), *off'g* 1 DOE ¶ 80,102 (1977), *appeal filed*, No. 3–37 (Temp. Emer. Ct. App.).

ii. *Profit Margin Analysis*

One possible indication of the extent to which refiners were able to increase their sales prices to recover increased crude oil acquisition costs is the industry-wide per barrel profit margin that refiners were able to achieve. If crude oil acquisition costs—the principal cost of any refiner—increased by more than sales prices, one would expect the per barrel profit margin for domestic refiners to decrease. In other words, if there were cost absorption (*i.e.* injury) by refiners, over time the increases in crude oil costs refiners experienced would not be completely reflected in the sales prices of the petroleum products they refined from that crude oil. However, the evidence shows that the per barrel profit margin for domestic refiners actually *increased* significantly during the period concerned. The following table sets forth the average per barrel profit margin achieved by domestic refiners during the period 1975–1980:

CALCULATION OF PROFIT MARGIN FOR U.S. REFINERS

[Dollars per barrel]

	Total revenue	Total cost	Profit margin
1975 (6 mo.)	$14.716	$12.624	$2.092
1976	15.090	12.847	2.243
1977	16.594	14.107	2.486
1978	17.297	14.735	2.562
1979	25.556	20.285	5.271
1980	37.495	31.073	6.422

Source: Economic Analysis Concerning the Ability of Refiners to Pass Through Crude Oil Overcharges, submitted in the *Alkek/Adams* proceedings, and sources cited therein.

The data in the table above indicates that domestic refiners as a group were able to achieve regular, substantial increases in the profit margin they were able to realize during the period 1975 through 1980. This fact is evidence that refiners as a group were able to recover virtually all crude oil cost increases. If this analysis were adopted, a rebuttable presumption would be adopted under which refiners would be deemed to have absorbed none of the impact of crude oil miscertifications and would receive no part of the funds available. Individual refiners would be able to rebut the presumption using company-specific data.

iii. *The Refiners' Position Based Upon Cost Banks*

Under the Doe price regulations, a refiner could not charge a price higher than its maximum allowable price calculated by reference to the refiner price rule contained in 10 C.F.R. § 212.83. However, a refiner was free to charge any price below that level. If a refiner did in fact charge a price below its maximum allowable price, it was permitted to "bank" the difference and, subject to certain restrictions, apply that banked amount to increase its maximum allowable price in future time periods. Refiners have argued that the fact that they accumulated sizeable banks of unrecouped costs calculated pursuant to the refiner price rule is conclusive evidence that they did not pass through the increased crude oil acquisition costs associated with alleged regulatory violations. *See, e.g., Palo Pinto Oil & Gas/Gulf Oil Corporation*, 10 DOE ¶ 85,049 (1982); *Office of Special Counsel for Compliance*, 10 DOE ¶ 85,048 (1982)[hereinafter cited as *Amoco*). Indeed, banks reported by the 30 largest domestic refiners at the end of the first quarter of 1980 were $7.445 billion. DOE Energy Information Administration, Monthly Energy Review at 78 (December 1980). (These reported figures have not been audited by the agency.) Although we have previously rejected the position that banks are conclusive evidence that refiners absorbed that amount of increased costs, *e.g., Amoco*, if that position were adopted here, refiners could receive all of the funds available for distribution, since their banks collectively exceed the overcharges involved in this proceeding. Alternatively, individual refiners would have to prove the level of banks on a month-by-month basis in order to qualify for refunds.

iv. *The Positions of the Parties in The Alkek/Adams Refund Proceeding*

The issue of the impact of crude oil miscertifications on refiners is central to an ongoing special refund proceeding being conducted by the Office of Hearings and Appeals pursuant to 10 CFR Part 205, Subpart V. On January 6, 1982, the Office of Hearings and Appeals issued a Decision and Order instituting special refund procedures for the distribution of funds obtained by the DOE in connection with consent orders entered into by Alfred B. Alkek and 24 other crude oil producers. *Office of Enforcement*, 9 DOE ¶ 82,521 (1982). On April 8, 1982, a similar Decision and Order was issued instituting special refund procedures for the distribution of funds obtained by the DOE in connection with consent orders entered into by Adams Resources and Energy, Inc. and 32 other crude oil producers. *Office of Enforcement*, 9 DOE ¶ 82,553 (1982). Because of *Alkek* and *Adams* decisions involved similar transactions and identical issues, the two proceedings were consolidated and the funds available for distribution were aggregated. Finally, on December 23, 1982, the DOE set aside an additional $30,867,618.84 in consent order funds attributable to the crude oil activities of Standard Oil Company (Indiana) for inclusion in the *Alkek/Adams* refund proceeding. *Office of Special Counsel for Compliance*, 10 DOE ¶ 85,048 (1982). The total amount involved in that consolidated proceeding currently exceeds $90 million.

In the *Alkek/Adams/Standard Oil Company (Indiana)* Proceedings a total of 61 Applications for Refund were filed. Most of these applications were filed by refiners of crude oil. One refiner/applicant, Mobil Oil Corportion, has submitted a detailed analysis of the effect of crude oil cost increases due to miscertifications in support of its *Alkek/Adams* Application for Refund. In response to the claims advanced by Mobil, on November 29, 1982, the Controller of the State of California, the Attorney General of the State of Michigan, and the Attorney General of the State of Alabama (the States) submitted a study prepared by Putnam,

Hayes & Bartlett, Inc. (PHB), economic consultants, entitled "Economic Analysis Concerning the Ability of Refiners to Pass Through Crude Oil Overcharges." The following is a discussion of the positions advanced by Mobil and the States.

In an Application which it filed on June 21, 1982 (Application No. RF6-24), Mobil claimed that it was injured by alleged miscertifications of crude oil by domestic producers. Mobil indicated that the alleged miscertifications had the effect of reducing Mobil's access to the benefit of old oil which it received as a participant in the Entitlement Program, thereby increasing its post-entitlements crude oil costs. Mobil also submitted a study prepared on its behalf by Robert R. Nathan Associates (Nathan), economic consultants, which Mobil claims establishes that Mobil did not recover the increased crude oil costs associated with miscertifications. Mobil therefore claims a refund based upon its proportionate share of refinery runs to stills during the period covered by the *Alkek/Adams* consent orders.

Mobil's claims are based on the findings of a study prepared by Nathan entitled "Economic Analyses and Expert Opinion pertaining to Mobil Oil Corporation's Application for a Refund from the U.S. Department of Energy."

The Nathan study maintains that the existence of Mobil's sizeable banks of unrecouped costs calculated under the refiner price rule (10 CFR 212.83) establishes conclusively that Mobil's product prices were constrained by market forces rather than cost-constrained under DOE price regulations. Nathan assets that the market for refined petroleum products is highly competitive and that based on market surveys, Mobil, as a "price-taker," priced its products consistently within the range of prevailing market prices. In that event, Mobil would have been passing on its increased costs to its customers only if market prices had been increasing to reflect those increased costs. As stated by Mobil and Nathan, "the relevant inquiry is whether the * * * overcharges [involved], acting through the Entitlements Program, could have caused an increase in the market prices of refined petroleum products." *See* Letter from R. Bruce McLean, P.C. and Harry R. Silver, Attorneys for Mobil, to Thomas L. Wieker, OHA Deputy Director (October 6, 1982). Based on its analysis of the elasticity of demand and supply, the Nathan study asserts that, assuming the overcharges cause a shift in the market supply curves of refiners, a full pass-through of increased costs will occur only if the demand for refined products is perfectly inelastic. However, Nathan states that demand for petroleum products is not perfectly inelastic. Nathan concludes that based on its review of the literature pertaining to demand elasticities of petroleum products, a refiner could have passed through at most half of the increased costs and thus was injured at least to some extent. *See* Nathan Study at 66-68.

However, at the conclusion of its study Nathan argues that an analysis of demand elasticities is not appropriate in an examination of the effect of miscertifications on Mobil and other Entitlements Program participants. Nathan asserts that the magnitude of the increased costs that refiners experienced as a result of these overcharges is insignificant on a per gallon basis, and therefore the supply of product would have been unaffected. In other words, Nathan asserts that the small cost changes caused by the certification violations involved in *Alkek/Adams* would not have caused a shift in the market supply curve. Accordingly, Nathan asserts that market prices would not have changed as a result of the miscertifications, and therefore Mobil absorbed in full its proportionate share of the injury incurred by all Entitlements Program participants. *See* Nathan Study at 69; *see also* Letter from Gary L. French, of Nathan, to Thomas L. Wieker at 2-3 (October 25, 1982).

In response to the claims in Mobil's Application and the Nathan study, on November 29, 1982, the Controller of the State of California, the Attorney General of the State of Michigan, and the Attorney General of the State of Alabama (the States) submitted a study prepared by Putnam, Hayes & Bartlett, Inc. (PHB), economic consultants, entitled "Economic Analysis Concerning the Ability of Refiners to Pass Through Crude Oil Overcharges." The PHB study concludes that Mobil and other Entitlements Program participants passed on all increased costs associated with miscertifications in the form of higher prices to consumers.

In the study, PHB seeks to refute the claim that the existence of sizeable cost banks is definitive proof of injury. PHB claims that cost bank figures are too imprecise and subject to manipulation to conclude that refiners were unable to pass through miscertifications. PHB asserts that refiners reported banked cost calculations to the DOE which were higher than the costs they considered in actual pricing decisions. PHB maintains that cost banks may often result from "inflated or otherwise misstated costs," and because some firms, including Mobil, are the subjects of pending enforcement actions, cost banks may also contain ineligible cost calculations. *See* PHB Study at 4. The study also notes that refiners could also include in their cost banks nonproduct refining and marketing costs beginning in early 1976. *See* PHB Study at 10. In any event, PHB asserts that even if the size of cost banks are considered an indication of the extent to which refiners could have passed on increased costs, cost banks for the 30 largest U.S. refiners increased minimally in relation to crude oil cost increases during the period 1974 through 1978. As a result, PHB maintains that refiners passed through all of their crude oil cost increases. In addition, PHB alleges that refiners' profit margins consistently increased from late 1975 through 1980. On the basis of this material, PHB concludes that refiners passed through all of the increased costs associated with miscertifications. *See* PHB Study at 21.

PHB also bases this conclusion on its analysis of the market that prevailed for refined petroleum products during the mid and late 1970's, and of supply and demand elasticities for petroleum products. Specifically, PHB contends that a full passthrough is likely to have occurred because demand for petroleum products is virtually inelastic where it matters—*i.e.* over the range of the demand curve covered by refiners' product price increases stemming from miscertifications. Moreover, PHB maintains that if increases in demand for refined petroleum products exceeded decreases in supply resulting from the increased costs (as PHB argues is the case), then a full passthrough may have occurred even if demand was not perfectly inelastic. Further, PHB claims that rapid price increases by Mobil and other refiners during the period in question created a market situation that facilitated the passthrough of the relatively small cost increases associated with the alleged *Alkek/Adams* miscertifications. In any event, PHB contends that demand was totally inelastic during 1979-80, when events precipitated shortages of refined petroleum products. *See* PHB Study at 12-16. Finally, PHB contends that Mobil and other major integrated refiners did possess the flexibility to raise their prices to recoup increased product costs. According to PHB, these refiners could have increased market prices without any threat of losing market position since they control significant shares of local geographic markets, and because major integrated firms such as these

have the capacity to coordinate pricing strategies. *See* PHB Study at 26–28.

Both Mobil and Nathan filed comments in which they assert that the findings of the PHB study were erroneous and without factual basis. First, Mobil and Nathan contend that PHB has provided no support for its claim that since cost bank figures include costs that exceed actual cash expenditures, they are too imprecise to provide a firm basis for a demonstration of injury. Nathan states that even if we accept allegations that the refiner price rule permitted Mobil to overstate its actual costs in calculating its refiner cost banks, Mobil's restated banks would still be well in excess of the refund amount claimed. Furthermore, Mobil and Nathan state that cost banks for the 30 largest refiners increased by a significant amount between 1974 and 1978, contrary to PHB's claim. While PHB asserts that costs banks for these refiners increased by a mere $102 million, Mobil states that its cost banks alone rose by approximately $523 million. Mobil and Nathan also disagree with PHB's contention that cost banks may increase at the same time as overcharges are being fully passed through. They believe it is illogical to assume that increased product costs, including overcharges, are always the first to be recouped by refiners. In addition, Mobil and Nathan assert that PHB has provided no support for its contention that demand for refined petroleum products was perfectly inelastic at any time during the period concerned. They maintain that a total passthrough of overcharges is impossible—*i.e.* that assuming market price increases occur, at least some of the increased costs will be absorbed by refiners. Nevertheless, Mobil and Nathan reiterate their argument that the cost increases were too small, even considered on a cumulative basis over time, to have affected Mobil's product prices or market prices.

Other points of disagreement with the PHB study are raised as well. First, Mobil and Nathan argue that a full passthrough of costs does not occur even if demand for refined petroleum products increases faster than supply. Secondly, they argue that PHB's data on refiners' profit is misleading. They assert that Mobil's profits would have been even greater in the absence of the overcharges, and maintain that in general, refiners' profits, as a percentage of revenue, showed no consistent increase during the relevant period. Finally, they contend that Mobil was indeed a price-taker, and argue that the fact that prices rose with market prices reveals the incapacity to pass on all of the overcharges.

A significant aspect of the submissions of Mobil and the States is the use of marginal economic analysis as a tool for approximating the extent to which the increased costs of crude oil miscertifications were passed through by refiners. Although Mobil has submitted an economic study which discusses at length demand elasticity for petroleum products, it rejects marginal economic analysis in the conclusion of the study. Mobil and Nathan justify the rejection on the basis that the cost increases involved in the *Alkek/Adams* proceeding (approximately $90 million) were too insignificant to have affected product prices to any extent. PHB also disavows marginal economic analysis. While asserting that small cost increases will at various points in time result in price increases, PHB asserts that marginal price increases have no effect whatsoever on the demand for refined products. We invite comments as to whether classical marginal economic analysis, or other lines of economic analysis, may be utilized as a basis for resolving the question of cost passthrough.

B. Impact on Resellers of Petroleum Products

To the extent overcharges were not absorbed at the refiner level they were then passed through by refiners to resellers of petroleum products. In this context the term "resellers" includes both wholesalers and retailers. Each reseller may have absorbed all or a part of the cost increase passed on by refiners. The part of the cost increase that resellers passed through was absorbed by consumers. Consumers who bought product directly from refiners will be considered in a subsequent section of this Notice. Since the focus of this fact-finding is to attempt to ascertain as closely as possible the amount of the overcharges that was absorbed at each level of the distribution chain, resellers should be entitled to refunds to the extent they did not pass through the overcharges to their downstream purchasers.

The DOE regulations governing special refund procedures provide that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR § 205.282(e); *see Standard Oil Company (Indiana)/John Coconato*, 11 DOE ¶ 85,121 (1983).

The use of presumptions can be an efficient, fair, and even-handed way to distribute refunds at certain levels of distribution in some cases. For example, we adopted a number of presumptions concerning the extent to which resellers of petroleum products absorbed alleged overcharges in order to manage efficiently the refunding of over $100 million obtained from Standard Oil Company (Indiana), commonly known as Amoco. In *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter referred to as *Amoco*), we adopted a level-of-distribution presumption concerning the manner in which refunds for each gallon of Amoco motor gasoline purchased should be divided among the jobber, retailer, and consumer levels in the distribution chain. We had observed in previous refund cases that, during the period of price and allocation controls, resellers and retailers of motor gasoline were at some times able to pass on to their customers the entire amount of their suppliers' price increases, which included alleged overcharge amounts, while at other times they were obliged to absorb these price increases. *See, e.g., Vickers Energy Corp./Unruh's, Inc.*, 10 DOE ¶ 85,006 (1982) (hereinafter cited as *Unruh's*). Although retailer and consumer representatives participating in the Amoco refund proceeding claimed that members of their respective groups absorbed all of the injury from the alleged overcharges, and therefore their members should receive all of the escrow fund, we found nothing in the record to support either group's claim. Instead, we concluded that it was likely that each level of distribution in the marketing chain absorbed some portion of the injury and passed on some portion until the remainder rested with ultimate consumers of motor gasoline.

Prior to *Amoco* we had not relied as extensively on presumptions, and this experience was not satisfactory. We had adopted two general methods in special refund cases for analyzing claimants' historical price data to determine what portion of the injury was likely absorbed by a retailer or wholesaler of motor gasoline. These methods were relatively complicated and involved detailed analysis of historical data. *Compare Unruh's with Tenneco Oil Co./Racetrac Petroleum, Inc.*, 10 DOE ¶ 85,023 (1982). Each applicant was required to sumbit a substantial amount of historical data to support its claim including the applicant's banks of unrecouped product cost increases, prices charged the

applicant by its supplier or suppliers, and prices charged by the applicant. Many applicants were not able to supply this type of data, especially for the beginning of the period of federal price controls. Our experience showed that even when a refund applicant chose to supply this information, the applicant usually qualified for a refund only for some of the volumes for which it applied. At the same time we were aware that the potential number of claimants in the Amoco refund proceeding was enormous. Consequently, we determined that it would be equitable and efficient to adopt presumptions concerning the amount of injury absorbed by each level of distribution so that individuals could, if they elected to claim under the applicable presumption, avoid having to submit extensive, detailed documentation of their claims. This experience suggests that the use of presumptions may be a valuable tool in the current refund proceeding.

In addition, the data base used in the *Amoco* proceeding to establish the presmption levels has relevance here because it included refiners' national average prices for motor gasoline. In view of the fact that the record indicated that Amoco's gasoline price levels closely tracked the national average for all refiners during the period covered by its consent order, we analyzed industry-wide data concerning changes in average margins to determine time periods in which it was likely that resellers and retailers absorbed the alleged overcharges. A graph representing the data used in the Amoco refund proceeding is reproduced as the Appendix to this Notice. Our analysis with respect to motor gasoline led to the presumption that wholesalers absorbed 34 percent of the impact of the alleged overcharges, retailers 40 percent, and consumers from retail outlets supplied by wholesalers the remaining portion, 26 percent. Thus, a retailer of Amoco gasoline who elected to claim under the presumption would receive 40 percent of the volumetric refund multiplied by the number of gallons of motor gasoline which he purchased. (We had indicated in a Proposed Decision and Order published for comment that the levels would be 34 percent, 45 percent, and 21 percent. 47 FR 35317 (1982). After the receipt of extensive comments from many resellers and their trade associations and two public hearings, these figures were revised as indicated.) In view of the similarity in the data base, we invite comments on whether the presumptions adopted in the *Amoco* proceeding may be useful in the present proceeding. We also invite comments on the proper interpretation of available market data and suggestions of alternative analytic frameworks for determining the impact of crude oil miscertifications upon resellers of petroleum products.

C. Impact on Consumers

To the extent overcharges were not absorbed by either refiners or resellers, they were passed on to consumers of petroleum products. As a result, in *Amoco* we found the magnitude of that impact on purchases by particular consumers by subtracting the percentage of the alleged overcharges absorbed at other distribution levels from 100 percent. The remainder is the percent of the alleged overcharges absorbed by consumers. Consumers were paid refunds based upon the volume of qualifying product which they purchased. While many large consumers have received refunds in the Amoco refund proceeding, we established a minimum refund level of $15.00, below which we would not approve a refund. (This level was chosen because that is the approximate cost of processing a refund.) If a finding were made in the present proceeding that consumers absorbed a particular portion of the impact of the crude oil miscertifications, all consumers of petroleum products in the United States might become potential claimants. The task of processing millions of claims could result in an administrative nightmare. In view of the small per gallon refund amount involved, this task would not appear to be cost effective. We therefore request comments on whether a minimum refund greater than $15.00 should be established in this proceeding. We also invite any suggestions as to how to measure the impact of miscertifications upon consumers.

III. Refund Distribution Mechanisms

For the purpose of this section, we assume that findings will be made that the impact of the overcharges involved here was felt at the refiner, reseller, and consumer levels. If that occurs, a means to distribute refunds to injured parties should be developed and reported to the District Court. The distribution of over $1 billion of a gargantuan task, and the availability of a practical means of distributing refunds is important and probably essential in determining how best to achieve restitution.

The choice of an appropriate mechanism for distributing refunds to refiners appears to be the least complicated. This is so because the universe of potential claimants is only about 200. If a finding is made that all participants in the Entitlements Program were injured as a result of the miscertifications, we could recommend that direct cash payments be made to all participants in the Entitlements Program. The only accurate way of calculating precise refunds would entail recalculating all derived data used in administering the the Entitlements Program for each month of the 1974–1981 period. This would be an extremely complex and onerous task. Other methods exist, however, that would reasonably estimate an appropriate refund. For example, payments could be made in the proportion of a firm's total participation in the Entitlements Program, or in proportion to its participation during a particular time period or periods. Generally, we have assumed in the discussion here what refunds should be distributed to Entitlements Program participants on the basis of crude oil runs to stills during the 1974–1981 period. But as noted below, it is likely that most of the funds in the escrow account reflect overcharges in the latter part of the price control period. To take this into account, a weighting of crude oil runs to stills by the value of an entitlement might be used as an alternative to a refiner's proportionate share of runs to stills during the 1974–1981 period. We invite comments on these issues from interested parites.

The question of distributing refunds to wholesalers and retailers of petroleum products is more complex. In special refund proceedings conducted under Subpart V of the DOE regulations, we have generally approved refunds to these groups on a pro rata basis. In other words, a distribution mechanism was adopted that pays refunds on a volumetric basis, *i.e.* in the proportion that an applicant's purchase volumes bore to the entire volume of a consenting firm's petroleum products that were subject to federal price and allocation controls during the period concerned. This refund distribution mechanism has been adopted because,

> on balance, attribution of injury to each gallon of refined products sold by [the consenting firm] seems the best available, general method of distributing the refund moneys. It is uniform, places all applicants on an equal footing, and is relatively easy to administer. Applicants can readily compute the size of their potential refund and thereby make an informed choice on whether to file an application. This method also implicitly recognizes that computation of individual, particularized overcharges in individual transactions is impossible to establish in this proceeding * * *.

Office of Special Counsel, 10 DOE ¶ 85,048 (1982).

To determine a per gallon refund amount in the present proceeding, we would need to know the total consumption of petroleum products in the United States during the period involved in the stripper well exemption litigation. The following table sets forth that information:

U.S. CONSUMPTION OF PETROLEUM PRODUCTS

Year	Barrels/day	Gallons/year
1973	17,308,000	265,331,640,000
1974	16,653,000	255,290,490,000
1975	16,322,000	250,216,260,000
1976	17,461,130	267,677,130,000
1977	18,431,000	282,547,230,000
1978	18,847,000	288,924,510,000
1979	18,513,000	283,804,290,000
1980	17,056,000	261,468,480,000
1981	16,058,000	246,169,140,000
Total consumption during price control period (August 1973–January 1981)		2,020,997,335,000

To derive a per gallon refund amount, one could divide the amount available for distribution in this proceeding by the total volume of petroleum products consumed in the United States during the period in which overcharges occurred. However, that figure is not likely to be useful. We have learned in previous special refund proceedings that many persons no longer have records to document the amounts of petroleum products they purchased during the period involved. As would be expected, this record-keeping problem is more acute for the early years of the period, since documentation of purchases can only be supplied if an applicant maintains records for a period of ten years or more.

Rather than use the entire price control period August 1973 through January 1981 on which to calculate the amount of refund, we believe a modification to that period may be useful. One possible alternative would delete a number of years at the beginning of the 1973–1981 period in determining qualified product purchases. This would increase the per gallon refund amount, and would make ineligible volumes purchased in the early part of the price control period. Under this approach it would be easier for applicants to show that they qualify for a refund, since they would not have to produce proof of purchases during the first part of the 1973–1981 period. In addition, this approach takes into consideration the fact that the amount of overcharges in this case increased greatly during the latter part of the 1973 through 1981 period. Since the amount of money per barrel deposited into the escrow account should approximate the value of an entitlement during the month of production, as the cost of an entitlement increased the amount deposited into the escrow account should have also increased. The price of an entitlement increased by only $0.95 between June 1977 and March 1979, when the price of an entitlement was $9.50. In contrast, between March and September 1979 the price of an entitlement was $9.50. In contrast, between March and September 1979 the price of an entitlement *increased* by $8.47 to $17.97. And in March 1980 the price of an entitlement had risen to $25.26. This dramatic increase in the price of an entitlement means that significantly more money had to be deposited into the escrow account during the latter part of the 1973–1981 period. Consequently, a refund mechanism that weighs the latters part as more significant than the first part of the 1973–1981 period might be appropriate.

A further matter complicates the computation of an appropriate per gallon refund amount. As stated in the beginning of this Notice, most refined petroleum products passed from refiners to users down through a complex, multi-level petroleum distribution system. For example, in the gasoline distribution system some product was sold to firms at the wholesale level, who then sold some of the product to other wholesalers and retailers, and some directly to consumers. Some product was sold by refiners directly to retailers, who then sold the product to consumers. However, retailers could have sold the product to other retailers. Finally, some product was sold by refiners directly to consumers. Other products, such as heating oil, followed a different distribution pattern. To the extent a finding is made that each of the different classes within the distribution system suffered some economic injury from the crude oil miscertifications, the per gallon refund amount must be apportioned among the various levels of distribution.

In addition to the foregoing, any discussion concerning practical refund distribution mechanisms should consider the extremely large numbers involved. We received over 12,000 refund applications in the Amoco refund proceeding. Since Amoco accounted for approximately seven percent of the total market for refined petroleum products during the period in question, by extrapolation we would expect that over 170,000 applicants would seek refunds in this case, the majority of refund applications being filed by resellers of petroleum products. Obviously, a claims process of this magnitude would be an extremely large undertaking. We invite comments on whether this undertaking is worthwhile and cost effective and suggestions as to how this job can be done efficiently and effectively.

In previous special refund proceedings we have refunded money to resellers by reference to the volume of qualifying petroleum products purchased by the applicant. In view of the large number of refund applications that can be expected to be filed, and in view of the difficulty encountered in the past by many resellers in establishing the volume of qualifying product purchased, alternatives to individualized volume computations must be considered. One alternative method for distributing refunds would be base the amount of a refund on the number of pumps or hoses a retail station has. Each retailer would be able to calculate his refund by reference to the following formula:

Amount of refund = Number of pumps × Per pump refund amount

Another alternative method for distributing refunds to resellers would be to establish a step function at a certain volume figure. Under this alternative, an applicant showing that it was a reseller in a given period or periods would qualify for a certain, fixed-amount refund. No proof of volumes purchased would be required. An applicant that also showed that it purchased an amount of product in excess of the step volume would qualify for an increased, fixed-amount refund. However, under this alternative an applicant would not need to prove the exact amount of its purchases. Rather, it would need to demonstrate only that it purchases an amount of product in excess of the volume defined as the step. This distribution method has the advantage of requiring only proof of purchase in excess of the step volume and simplifies the processing of refund applications. We invite comments as to whether this methodology should be adopted and, if it is, the level of appropriate refunds and the appropriate step volume.

Refunds to consumers as well as corporate purchesers will certainly require processing thousands of refund applications. We invite comments on whether this process is worthwhile and cost effective, and the standards for processing these applications. Once again, we believe that a consumer should have made a minimum volume of purchases in order for it to receive a refund. In *Amoco* we established this amount at a level that would generate a refund of $15.00. We invite commen's on

this issue as well as comments concerning an appropriate proof of purchase requirement.

IV. Residual Funds

Our experience in Subpart V special refund proceedings indicates that after all individual refund applications are paid, a substantial amount of money is likely to remain unclaimed. We therefore have adopted the practice of dividing refund proceedings into two stages. During the first stage all claim applications are considered and decided, and successful applicants receive refunds. Funds remaining after these refunds are made are subject to second-stage refund procedures. In the past we have generally utilized two types of distribution mechanisms. The first involves direct payment of the funds to the U.S. Treasury. *See, e.g., Office of Enforcement,* 10 DOE § 82,544 (1983); *see generally Getty Oil Co.;* 1 DOE § 80,102 (1977), *aff'd, Getty Oil Co. v. DOE,* 569 F. Supp. 1204 (D. Del. 1983), *appeal filed,* No. 3–37 (Temp. Emer. Ct. App.). In the second, funds were remitted to state governments or municipalities for energy-related projects to benefit the class of injured consumers in their jurisdictions. Commenters in special refund proceedings have also suggested that an energy trust fund be established which would approve grants from the income and corpus of the funds to encourage alternative energy research and to assist low-income individuals with energy-related costs. We invite commenters in this proceeding to address all of these methods of distribution. In addition, we remain open to additional suggestions concerning indirect restitution. Commenters should remember that any disposition of these funds must have a nexus between the beneficiaries of the funds and the persons who bore the impact of the crude oil miscertifications. *In re The Department of Energy Stripper Well Exemption Litigation,* Fed. Energy Guidelines § 26,445, at 29,310; *Citronelle-Mobile Gathering, Inc. v. Edwards,* 669 F.2d 717 (Temp. Emer. Ct. App. 1982).

V. Procedures

As stated previously in this Notice, the District Court referred this case to the OHA for fact-finding pursuant to its regulatory process. Accordingly, the procedures that we will follow are based on the Special Refund regulations of the Department of Energy codified at 10 C.F.R. Part 205, Subpart V. Comments on this Notice may be filed with the Office of Hearings and Appeals within 60 days of publication of this Notice in the **Federal Register.** After comments are received and reviewed, we anticipate that a hearing for the purpose of oral argument, or an evidentiary hearing if necessary, will be scheduled. All interested parties will have an opportunity to participate in any hearing held. After oral argument a Proposed Decision will be issued setting forth our tentative conclusions concerning all of the issues present in this proceeding. Interested parties will have an opportunity to submit comments on the Proposed Decision before a final determination in this matter is issued.

The Public Docket Room of the Office of Hearings and Appeals will receive copies of all comments filed in this proceeding, and upon request will make them available to the public. Since the number of commenters and ultimate participants in this proceeding is potentially enormous, there is no requirement that comments be served on other interested parties. The Public Docket Room will also make available to interested persons documents previously submitted to the OHA. Requests for copies of such documents should be made in writing to Marcia B. Proctor at the address at the beginning of this Notice. At a later date the Office of Hearings and Appeals will establish and publish an official service list of individuals interested in receiving any further notices as well as all proposed and final Decisions of the Office of Hearings and Appeals. Commenters are urged to use joint or lead counsel to the extent their interests overlap. The specific procedures regarding the submission of comments, the distribution of comments, and the establishment of a service list follows:

A. Filing of Comments

Comments to this Notice will be accepted for filing by the Office of Hearings and Appeals so long as they are postmarked or received by this office no later than 60 days from the date of publication of this Notice in the **Federal Register.** Comments will be accepted on the following subjects:

(1) General Comments;
(2) Procedures;
(3) Impact on Entitlements Program Participants & Direct Purchasers;
(4) Impact on Resellers;
(5) Impact on Consumers;
(6) Residual Funds; and
(7) Refund Distribution Mechanisms.

General comments should be limited to five pages. There is no page limitation for other comments. All specific comments should be clearly labeled with one of the seven subjects set forth above. Commenters who wish to comment on more than one of the subjects should submit separate comments for each subject.

All comments will be made available for public inspection in the Office of Hearings and Appeals Public Docket Room. The Public Docket Room is open during the hours of 1:00–5:00 p.m. Monday through Friday (except Federal holidays) and is located in Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. If *no* confidential information is contained in the comments, the commenter should submit an original *plus* two copies of the comments. If the commenter claims confidential treatment for any information contained in the comments, the commentor should submit the original comments *plus* three copies from which confidential information has been deleted. The Office of Hearings and Appeals may reject comments that do not include the required number of copies.

All comments, including any attachments, must be on paper no larger than 8½ x 11 inches. If a stamped receipted copy is desired by the submitter, the commenter must send an *extra* copy and a self-addressed, stamped envelope. The extra copy will be stamped receipted and returned. Comments as well as the envelope should be labeled "Stripper Well Exemption Litigation/[identify the area of comments]." They should be mailed to Marcia B. Proctor at the address at the beginning of this Notice. Comments may also be hand delivered between the hours of 9:00–11:00 and 1:00–5:00 p.m. to the Office of Hearings and Appeals Official Filing Room, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.

If a commenter claims that certain information is confidential, it may submit a statement as to why it believes that the information is confidential. This statement should generally focus on the exemptions from mandatory public disclosure found in the Freedom of Information Act, 5 U.S.C. § 552(b). Commenters who claim that information is exempt from mandatory public disclosure pursuant to Exemption 4 of the FOIA should address the criteria for determining the applicability of that exemption found in 10 CFR § 1004.11(f). The DOE reserves the right to make its own determination concerning the confidentiality of the material submitted. However, in the event that the DOE determines that the material for which confidential treatment is requested should be released, it will notify the commenter and inform it of the decision no less than seven calendar

days prior to release. 10 CFR § 1004.11; *see* 10 CFR § 205.9(f)(2).

B. Distribution of Comments

The Office of Hearings and Appeals will compile comments received in this proceeding on a daily basis. Each compilation will include a list of comments received as well as copies of those comments. Copies of this packet will be available to the public in the Office of Hearings and Appeals Public Docket Room. Exhibits or attachments to the comments which are voluminous or repetitive or otherwise ancillary in nature will be omitted from the packet. If any exhibit or attachment is omitted, a notation will be made on the list of comments, and the full document will be available for review in the Public Docket Room.

Requests for distribution of (i) the packet or (ii) the list of comments alone or (iii) an individual comment will be handled on an individual, written request basis. Send all written requests to Marcia B. Proctor at the address at the beginning of this Notice. The request as well as the envelope should be labeled "Stripper Well Exemption Litigation/Distribution of Comments."

C. Service List

All parties who are on the official service list in the stripper well exemption litigation will be placed on the service list of this proceeding. Other interested parties may be placed on the service list as well. Individuals on the service list will receive all notices and Decisions and Orders issued by the Office of Hearings and Appeals pertaining to the stripper well exemption litigation.

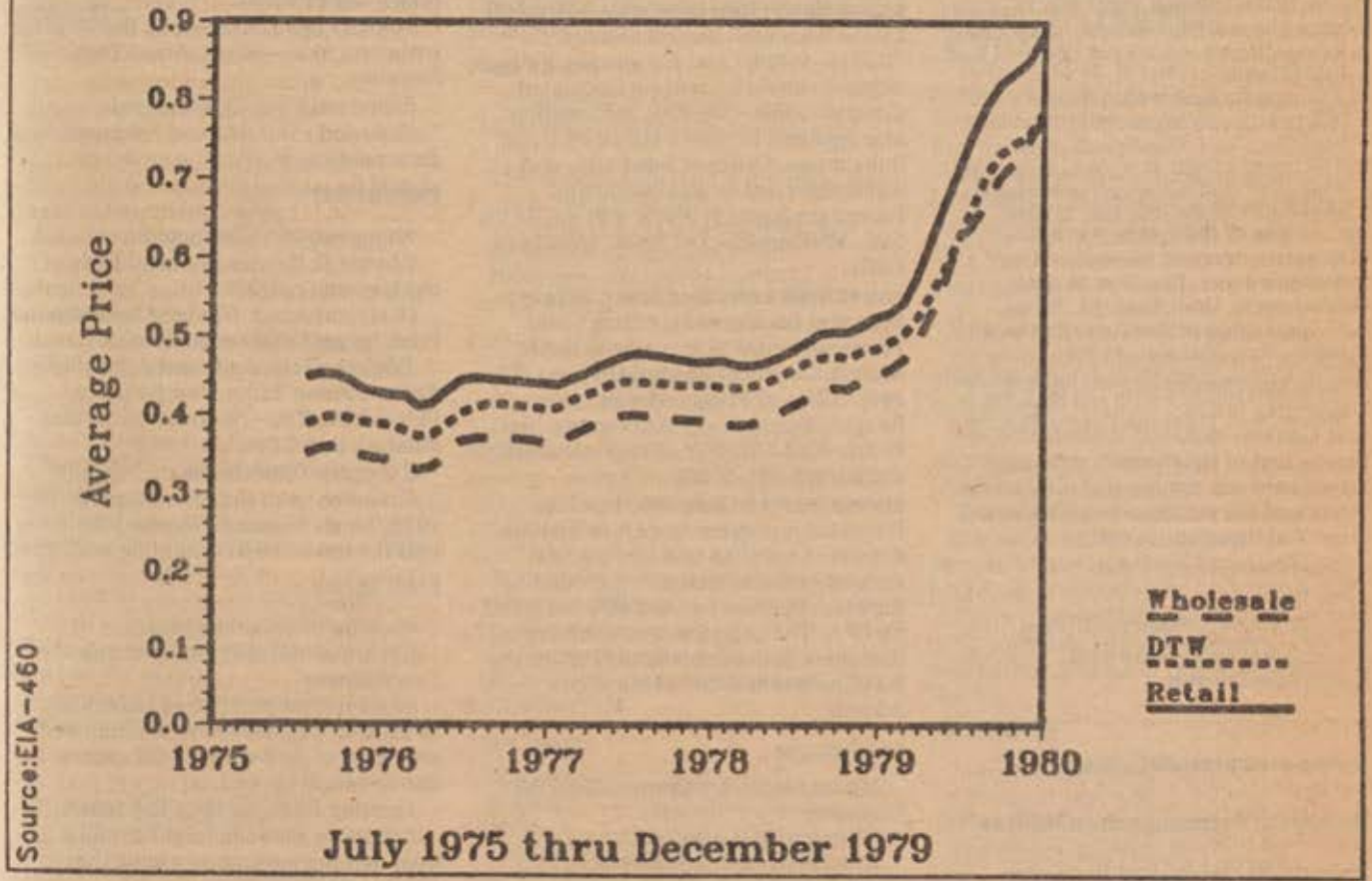
Written requests to be placed on the service list should be sent to Marcia B. Proctor at the address at the beginning of this Notice. The request as well as the envelope should be labeled "Stripper Well Exemption Litigation/Service List." We may deny requests to be added to the service list.

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

George B. Breznay,

Director, Office of Hearings and Appeals.

Appendix A: National Average Refiners' Prices for Wholesale, DTW, and Retail Gasoline



[FR Doc. 83-34703 Filed 12-29-83; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2499-3]

Availability of Environmental Impact Statements Filed December 19 Through December 23, 1983 Pursuant to 40 CFR 1506.9

Responsible Agency

Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 830664, DSuppl, COE, LA, Lake Pontchartrain Hurricane Protection Plan, Louisiana, Due: Feb. 28, 1984.
EIS No. 830665, Draft, FHW, CA, CA-1 Improvement, Half Moon Bay Airport to Linda Mar Blvd., Devil's Slide, San Mateo Co., Due: Feb. 23, 1984.
EIS No. 830666, Final, AFS, AK, Alaska Regional Plan, Standards/Guidelines, Due: Feb. Jan. 30, 1984.
EIS No. 830667, Final, FHW, IN, IN-37 Bypass Improvement, Bloomington, Monroe Co., Due: Jan. 30, 1984.
EIS No. 830668, DSuppl, FHW, TN, TN-22/N. Martin Bypass Improvement, Union City to Ralston, Obion and Wealey Counties, Due: Feb. 13, 1984.
EIS No. 830670, Draft, EPA, KY, North Jefferson County Wastewater Treatment Facilities, Grant, Due: Feb. 21, 1984.
EIS No. 830671, Draft, COE, WA, Spirt Lake, Permanent Outlet Alternative Strategies, Skamania County, Due: Feb. 13, 1984.
EIS No. 830672, Draft, BLM, AK, White Mountains National Recreation Area Resource Mgmt., Due: Mar. 30, 1984.
EIS No. 830673, Draft, BLM, AK, Stesse National Conservation Area, Resource Mgmt., Plan, Due: Mar. 30, 1984.
EIS No. 830674, Draft, FHW, PA, PA-291/LR-542 Improvement, Fourth and Price Sts. to Ridley Creek, Delaware County, Due: Feb. 13, 1984.
EIS No. 830675, Final, FHW, MN, TH-60 Improvements, Worthington to St. James, Nobles/Jackson/Cottonwood/Watonwan Counties, Due: Jan. 30, 1984.

Dated: December 27, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-34579 Filed 12-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51499; TSH-FRL 2499-8]

Receipt of Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of nineteen PMNs and provides a summary of each.

DATES: Close of Review Period:
PMN 84-264—March 14, 1984.
PMN 84-265, 84-266, 84-267, 84-268, 84-270, 84-271, 84-272, 84-273, 84-274 and 84-275—March 18, 1984.
PMN 84-276—March 19, 1984.
PMN 84-277, 84-278, 84-279, 84-280, 84-281 and 84-282—March 20, 1984.
Written comments by:
PMN 84-264—February 13, 1984.
PMN 84-265, 84-266, 84-267, 84-268, 84-269, 84-270, 84-271, 84-272, 84-273, 84-274 and 84-275—February 17, 1984.
PMN 84-276—February 18, 1984.
PMN 84-277, 84-278, 84-279, 84-280, 84-281 and 84-282—February 19, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51499]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 84-264

Manufacturer. Chevron Chemical Company.
Chemical. (G) Alkyl sulfonate.
Use/Production. (S) Industrial enhanced oil recovery. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >5.0 g/kg; Irritation: Skin—Pratically non-irritating, Eye—Minor; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-265

Manufacturer. Confidential.
Chemical. (G) Copolymer of acrylic acid with alkyl methacrylates and an alkyl acrylate.
Use/Production. (G) The new substance will have a dispersive use as an industrially applied coating. Prod. range: 5,000-10,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 15 workers, up to 2 hrs/da, up to 88 da/yr.
Environmental Release/Disposal. 3kg/batch released to land. Disposal by incineration and landfill.

PMN 84-266

Importer. Confidential.
Chemical. (G) Modified fluoroalkyl urethane.
Use/Import. (G) Textile finish. Import range: Confidential.
Toxicity Data. Acute oral; 39.730 g/kg; Irritation: Skin—Slight, Ames Test: Negative.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84-267

Manufacturer. Confidential.
Chemical. (G) Alkenyl modified oxyalkylene polymer.
Use/Production. (G) Textile lubricant. Prod. range: Confidential.
Toxicity Data. Acute oral: 16.0 ml/kg; Acute dermal: 16.0 ml/kg; Irritation: Skin—Mild, Eye—Minor to moderate; Inhalation: >6 hrs.
Exposure. Confidential.
Environmental Release/Disposal. 5-10 kg/batch released. Disposal by industrial wastewater treating facility.

PMN 84-268

Manufacturer. Confidential.
Chemical. (G) Isocyanate-terminated polyurethane.
Use/Production. (S) Used internally as an intermediate in the production of an adhesive dispersion. Prod. range: 28,000-64,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 1 hr/da, up to 170 da/yr.
Environmental Release/Disposal. 5 kg and 200 g released. Disposal by incineration.

PMN 84-269

Manufacturer. Confidential.

Chemical. (G) Isocyanate-terminated polyurethane.

Use/Production. (S) Used internally as an intermediate in the production of an adhesive dispersion. Prod. range: 28,000–64,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 1 hr/da, up to 170 da/yr.

Environmental Release/Disposal. 5 kg and 200 g released. Disposal by incineration.

PMN 84–270

Manufacturer. Confidential.

Chemical. (G) Isocyanate-terminated polyurethane.

Use/Production. (S) Used internally as an intermediate in the production of an adhesive dispersion. Prod. range: 28,000–64,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 1 hr/da, up to 170 da/yr.

Environmental Release/Disposal. 5 kg and 200 g released. Disposal by incineration.

PMN 84–271

Manufacturer. Confidential

Chemical. (G) Polyurethane dispersion.

Use/Production. (G) Industrial adhesive, open non-dispersive use. Prod. range: 30,000–70,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 2 workers, up to 2 hrs/da, up to 147 da/yr.

Environmental Release/Disposal. 1 kg/batch released. Disposal by landfill.

PMN 84–272

Manufacturer. Confidential.

Chemical. (G) Polyurethane dispersion.

Use/Production. (G) Industrial adhesive, open non-dispersive use. Prod. range: 30,000–70,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 2 workers, up to 2 hrs/da, up to 170 da/yr.

Environmental Release/Disposal. 1 kg/batch released. Disposal by landfill.

PMN 84–273

Manufacturer. Confidential.

Chemical. (G) Polyurethane dispersion.

Use/Production. (G) Industrial adhesive, open nondispersive use. Prod. range: 30,000–70,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 2 workers, up to 2 hrs/da, up to 147 da/yr.

Environmental Release/Disposal. 1 kg/batch released. Disposal by incineration.

PMN 84–274

Manufacturer. ALCOLAC, INC.

Chemical. (S) Poly (OXY-1,4-butanediyl)-X-(1-OXO-2 propenyl)-w-[(1-OXO-2-propenyl)OXY]-.

Use/Production. (S) Industrially—applied radiation curable coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Mild, Eye—Minimal.

Exposure. Confidential.

Environmental Release/Disposal. 142 kg released to land. Disposal by landfill.

PMN 84–275

Manufacturer. Confidential.

Chemical. (G) Modified acrylate polymer.

Use/Production. (G) Processing agent for thermoplastic manufacture. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–276

Manufacturer. Confidential.

Chemical. (G) Diarylazomethine N-oxide.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. Ames Test: Weak.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–277

Importer. Confidential.

Chemical. (G) Spiroglycol.

Use/Import. (S) Cross-linking agent for urethane leather, modifier for powder coating, intermediates for resin monomers and organic derivatives for industrial use. Import range: Confidential.

Toxicity Data. Ames Test: Negative; TLm 48 hrs (Orange-red killifish): <100 parts per million (ppm).

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–278

Manufacturer. Confidential.

Chemical. (S) 11-Bromoundecanoyl chloride.

Use/Production. (S) Site-limited chemical intermediate in the production of a new chemical substance. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 4 workers, up to 1.0 hr/da, up to 10 da/yr.

Environmental Release/Disposal. 0.5 kg/batch released to land. Disposal by publicly owned treatment works (POTW).

PMN 84–279

Manufacturer. Confidential.

Chemical. (S) Cholest-5-en-3-ol(3Beta)-, 11-bromoundecanoate.

Use/Production. (S) Site-limited chemical intermediate in the production of a new chemical substance. prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 6 workers, up to 0.5 hr/da, up to 20 da/yr.

Environmental Release/Disposal. 0.5 kg/batch released to water and to land. Disposal by POTW.

PMN 84–280

Manufacturer. Confidential.

Chemical. (S) Cholest-5-en-3-ol(3Beta)-, 11-[(1-oxo-2-propenyl)oxy] undecanoate.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 7 workers, up to 0.5 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. 0.025 kg/batch released to water with 0.05 kg/batch to land. Disposal by POTW.

PMN 84–281

Manufacturer. Confidential.

Chemical. (S) Cholest-5-en-3-ol(3Beta)-,4-(1-oxo-2-propenyl)oxy butanoate.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 7 workers, up to 0.5 hr/da, up to 20 da/yr.

Environmental Release/Disposal. 0.025 kg/batch released to water with 0.05 kg/batch to land. Disposal by POTW.

PMN 84–282

Manufacturer. Confidential.

Chemical. (S) Cholest-5-en-3-ol(3Beta)-,4-chlorobutanoate.

Use/Production. (S) Site-limited chemical intermediate use in the production of a new chemical substance. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 6 workers, up to 0.5 hr/da, up to 20 da/yr.

Environmental Release/Disposal. 0.05 kg/batch released to water and land. Disposal by POTW.

Dated: December 23, 1983.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 83-34646 Filed 12-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140044; TSH-FRL 2499-7]

Toxic and Hazardous Substances Control; ICF Inc., Putnam, Hayes and Bartlett, Inc., Research Triangle Institute, and Sobotka and Co., Inc.; Transfer of Data to Contractor and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, ICF Inc. and its subcontractors, Putnam, Hayes, and Bartlett, Inc. (PHB), Research Triangle Institute, and Sobotka and Co., information which has been or will be submitted to EPA under section 4, 6, and 8 of the Toxic Substances Control Act (TSCA). These firms (either individually or as a team) will review this information and use it to evaluate the potential economic impacts of regulatory actions taken under section 6 of TSCA. Some of the information to be reviewed may be claimed to be confidential.

DATE: The transfer to confidential data submited to EPA will occur no soner than 10 working days after date of publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: The Office of Toxic Substances (OTS) is responsible for evaluating the need for, and where necessary developing, regulatory actions to reduce unreasonable risks of injury to health or the environment from chemicals that are already in commerce. In the evaluation process, EPA considers various factors (e.g., exposure levels, engineering controls to control exposure, the uses and substitutes of the various chemicals and their toxicity profiles, etc.) before deciding to proceed with a regulatoryaction. When a regulatory action for a specific chemical is warranted and developed, the Agency considers the potential economic impact of the control requirements (e.g., engineering controls or personal protection equipment, etc.) and other regulatory options. ICF Inc. and its subcontractors, PHB, Research Triangle Institute, and Sobotka and Co., are currently providing support (under Contract No. 68-02-4055) to EPA in performing these economic evaluations in connection with the OTS Existing Chemicals Program as well as other regulatory activities (e.g., asbestos, PCBs, etc.) under section 6 of TSCA.

The economic analyses are based on data, such as current exposure levels, manufacturing processes, production levels or sales, and uses and substitutes, that are in the public domain or submitted by chemical manufacturers, processors or users. In some cases, this information is confidential and available for review only to authorizes EPA employees and contractors that have been cleared and formally approved for access to such data.

In accordance with 40 CFR 2. 306(j), EPA has determined that it will need to disclose to ICF Inc. and its subcontractors confidential business information submitted to EPA under sections 4, 6, and 8 of TSCA to perform work under the above-noted contract. Since these firms will review information that in some cases is confidential, EPA is issuing this notice to inform all submitters of data under section 4, 6, and 8 of TSCA that these firms (either individually or working together as a team) may receive from EPA, on a need-to-know basis, confidential business information on specific chemicals that are under review or are subjects of regulatory actions. After completing their economic analysis for a specific chemical, any firm receiving confidential business information will return all such information to EPA.

ICF Inc. and its subcontractors PHB, Research Triangle Institute, and Sobotka and Co. have been authorized to have access to TSCA confidential business information under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" manual. EPA has approved the security plans of these four firms and has conducted the required inspections of the contractors' facilities and found them to be in compliance with the provisions of the manual. Personnel from these four firms will be required to sign a non-disclosure agreement before they are permitted access to confidential information in accordance with the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual.

Dated: December 21, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-34646 Filed 12-29-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83-1230]

International Communications Competition; Notice of Inquiry

November 10, 1983.

The Commission has issued a Notice of Inquiry looking toward adoption of procedures and policies to better accommodate emerging international communications competition with the formalities of international requirements and conventions.

Specifically, the Commission said it would look into the need to develop a policy regarding conferral of Recognized Private Operating Agency (RPOA) status upon noncarrier service providers; to develop a policy concerning the right of non-common carriers to acquire indefeasible rights of user (IRU) or other ownership in international transmission facilities, the ownership of which has been limited to common carriers; and whether a need exists for formal policies for processing requests for assignment of a Data Network Identification Code (DNIC), a unique, four-digit number designed to provide discrete identification of individual public data networks.

(IRU refers to a type of ownership of transmission facilities in which the IRU holder has most of the indicia of ownership but lacks the right to control the facility.)

The DNIC allows network switches worldwide to direct traffic to a particular destination data network, and is, therefore, useful to a service provider's business. While the Commission now informally assigns DNICs, it has never formally adopted any policies regarding their issuance. Because the number of DNICs available for U.S. use is limited and because extension of FCC pro-competitive policies to international services may increase the number of entities to whom a DNIC would be useful, the Commission concluded it was now time to inquire into whether a need exists for more formal policies for assignment of DNICs.

Turning to a petition by the Association of Data Processing Service Organizations (ADAPSO) proposing adoption of procedures for formal "accreditation" of RPOA status, the Commission noted that the RPOA concept has significance under the International Telecommunications Union (ITU) Convention and in relations among ITU members. The RPOA concept is a mechanism to facilitate operation of the ITU by regularizing relations between those member nations which place responsibility for communications matters in the hands of governmental entities such as Administrations of Postes, Telephone and Telegraphs (PTTs) and government-owned broadcasting services and those such as the United States which place their communications and broadcasting services in the hands of private, non-governmental corporations.

As noted by ADAPSO, RPOA status historically has been accorded generally to those entities which "function like an administration"—that is, which offer the kinds of communications services offered by the PTTs—and, in this country, to certificated common carriers. However, the Commission said it did not believe that only "common carriers" in the traditional U.S. sense of the term are encompassed in the RPOA concept of the ITU. For example, Aeronautical Radio, Inc. (ARINC) has been granted RPOA status, although it is not a common carrier and has never been certificated under Section 214 of the Communications Act. ARINC is a user group which provides communications services for its constituents on a not-for-profit basis, open only to members, and thus does not constitute "public correspondence" as that term is used in the definition of RPOA.

Noting that RPOA status should be voluntary and should not be entered into lightly by companies because they would be expected to commit corporate resources to the ITU in terms of staff resources and financial support, the Commission asks (1) whether RPOA status currently is available to enhanced-service vendors under the Department of State's practice; and, (2) if not, whether a program opening the grant of RPOA status to the enhanced-service-provider category would be desirable. Comments are requested not only on the merit of RPOA status, but also upon the issue of what entities should be accorded such status and the way it should be conferred.

In addition, parties may wish to comment on the following matters which have a bearing on the Department of State's RPOA-designation practices: (1) the grounds, if any, for entertaining petitions to deny a request for RPOA status; (2) the type of entities eligible to apply for RPOA status (or to whom an obligatory process should apply); (3) the proper relationship between an RPOA-accreditation process and current FCC Section 214 license program; (4) the need for each affiliated corporate subsidiary to secure a separate grant of RPOA status; and (5) whether and what kind of conditions should be attached to a grant of RPOA status.

Turning to ADAPSO's second request, and a similar request by ARINC, the right of non-carriers to own IRUs in cable facilities, the Commission noted that nothing in the Communications Act would, *per se*, prohibit ownership of IRUs in cable circuits by non-common carriers. However, the Commission noted that a policy allowing non-carriers IRUs would alter those current customer/carrier relations under which service is now provided by opening a new class of ownership and operation. If enhanced-service providers avail themselves of such a policy, they would be transformed from users to owners of facilities, which could possibly remove FCC control of the underlying basic services. Comments are requested on this issue.

The DNIC was developed in the International Telegraph and Telephone Consultative Committee of the ITU. Assignment of the DNIC, like conferral of RPOA status, within a given country is the responsibility of that country. In the United States, ultimate responsibility rests with the State Department, but authority to assign DNICs has been delegated to the FCC. However, the FCC has developed no formal policy regarding the entities or services which should be assigned DNICs, nor any formal procedures. An entity desiring such a code has, in the past, merely notified the Commission that it wanted one assigned and stated it had the ability to originate and terminate international traffic. Evidence of a 214 authorization and conclusion of an operating agreement with a foreign carrier, or an interconnection agreement with a U.S. international carrier usually has been provided.

However, the Commission concluded that while these have been workable arrangements in the past, they may not be in the future as the number of U.S. international providers increase. In addition, enhanced-service providers generally are customers of telecommunications carriers, rather than being carriers themselves, and, as such, do not obtain Section 214 authorization. Therefore, the Commission said it had to discern the various types of entities that are likely to have a need for DNIC assignments. Comments are requested on how likely it might be that the relative scarcity of DNICs will become a problem, whether to develop a formal process for considering requests for DNICs, whether a procedure is needed to revoke a DNIC, or whether to rely on the marketplace to determine DNIC assignments.

Comments are due by March 5, 1984 and replies by April 2, 1984.

Action by the Commission November 8, 1983, by Notice of Inquiry (FCC 83-516). Commissioners Fowler (Chairman), Quello and Dawson, with Commissioner Rivera voting later on circulation.

For additional information contact John Copes (202) 632-4047.

Note.—Due to the ongoing effort to minimize printing costs, the Notice of Inquiry will not be published herein. However, copies may be obtained from the International Transcription Service located at 1919 M St., NW., Washington, D.C 20554, Tel.: (202) 296-7322. In addition, a copy is available for public inspection in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both located at 1919 M St.

William J. Tricarico,

Secretary.

[FR Doc. 83-34592 Filed 12-29-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[No. P-234]

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation, Regency Cruise Lines, et al.; Order of Revocation

Regency Cruise Lines, Regency Cruise Lines Ltd. and March Shipping Corporation c/o International Cruise Center, Inc., 185 Willis Avenue, Mineola, NY 11501, have ended plans to operate the passenger vessel CONSTELLATION from United States ports.

By virtue of the authority vested in me by the Federal Maritime Commission as set forth in the Manual of Orders, Commission Order No. 1 (Revised), Amendment No. 4, section 9.11:

It is ordered, that Certificate (Performance) No. P-234 issued to Regency Cruise Lines, Regency Cruise Lines Ltd. and March Shipping Corporation covering the CONSTELLATION be and is hereby revoked effective December 22, 1983.

It is further ordered, that a copy of this Order be published in the Federal Register and served on the certificants.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-34631 Filed 12-29-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citicorp; Proposed Acquisition of New Biscayne Federal Savings and Loan Association, Miami Florida

Citicorp, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act (the "Act"), has applied for the Board's approval under section 4(c)(8) of the 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)), to acquire New Biscayne Federal Savings and Loan Association, Miami, Florida, a Federal savings and loan association.

On December 20, 1983, the Board published notice of this application in the Federal Register (48 FR 56446), affording an opportunity for interested persons to express their views on the proposed acquisitions. The comment period was to close on January 4, 1984. The Board also ordered an informal hearing on the application to be held on January 6, 1984.

The Board has received a number of urgent requests, particularly by persons interested in commenting on the application by Citicorp to acquire First Federal Savings & Loan of Chicago, for additional time to file their comments on the applications and to prepare the information necessary for presentation at the informal hearing. Although the Board continues to believe that expenditious action on the application is necessary because an emergency situation exists at New Biscayne as well as at First Federal within the meaning of section 118(a) of the Garn-St Germain Depository Institutions Act of 1982, the Board believes that an additional period for public comment on the application is appropriate in view of the interruption of normal work schedules by the holiday period. Accordingly, the Board has rescheduled the informal hearing on the New Biscayne application from January 6 to January 9, 1984, and has extended the comment period on the application until January 9, 1984.

The rescheduled hearing will commence at 9:00 a.m. at the offices of the Federal Reserve Board, 20th and C Streets, NW., Washington, D.C., 20551, in Dining Room E of the Martin Building. A person wishing to present evidence at the informal hearing should file with the Secretary of the Board a request to appear at the hearing, which must be received at the Secretary's office in Washington, D.C., 20551, no later than January 5, 1984. The request should specify the names of the persons who desire to present evidence, the interest of those persons in the proceeding, the matters concerning which those persons desire to present evidence and the amount of time desired to present such evidence. The Secretary of the Board will publish on January 6, 1984, a list of witnesses and the amount of time allotted to each.

The Board reserves the right to terminate the comment period, or to cancel the informal hearing, and to act on the application at any time, if circumstances develop that cause the Board to believe that such action is necessary.

The application may be inspected at the offices of the Board of Governors in Washington, D.C., or at the Federal Reserve Banks of New York and Atlanta.

Board of Governors of the Federal Reserve System, December 28, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-34789 Filed 12-29-83; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Proposed Acquisition of First Federal Savings and Loan Association of Chicago, Chicago, Illinois

Citicorp, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act (the "Act"), has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1343(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire First Federal Savings and Loan Association of Chicago, Chicago, Illinois, a stock savings and loan association.

On December 20, 1983, the Board published notice of this application in the Federal Register (48 FR 56445), affording an opportunity for interested persons to express their views on the proposed acquisitions. The comment period was to close on January 4, 1984. The Board also ordered an informal hearing on the application to be held on January 5, 1984.

The Board has received a number of urgent requests by persons interested in commenting on the application for additional time to file their comments on the application and to prepare the information necessary for presentation at the informal hearing. Although the Board continues to believe that expeditious action on the application is necessary because an emergency situation exists at First Federal within the meaning of section 118(a) of the Garn-St Germain Depository Institutions Act of 1982, the Board believes that an additional period for public comment on the application is appropriate in view of the interruption of normal work schedules by the holiday period. Accordingly, the Board has rescheduled the informal hearing on the First Federal application from January 5 to January 11, 1984, and has extended the comment period on the application until January 9, 1984.

The rescheduled hearing will commence at 9:00 a.m. at the offices of the Federal Reserve Board, 20th and C Streets, NW., Washington, D.C., 20551, in Dining Room E of the Martin Building. A person wishing to present evidence at the informal hearing should file with the Secretary of the Board a request to appear at the hearing, which must be received at the Secretary's office in Washington, D.C., 20551, no later than January 5, 1984. The request should specify the names of the persons who desire to present evidence, the interest of those persons in the proceeding, the matters concerning which those persons desire to present evidence and the amount of time desired to present such evidence. The Secretary of the Board will publish on January 6, 1984, a list of witnesses and the amount of time allotted to each.

The Board reserves the right to terminate the comment period, or to cancel the informal hearing, and to act on the application at any time, if circumstances develop that cause the Board to believe that such action is necessary.

The application may be inspected at the offices of the Board of Governors in Washington, D.C., or at the Federal Reserve Banks of New York and Chicago.

Board of Governors of the Federal Reserve System, December 28, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-34790 Filed 12-29-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a

list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on December 23.

Public Health Service

National Institutes of Health

Subject: National Library of Medicine Online Application Packet—EXISTING COLLECTION
Respondents: Businesses, individuals, state/local/county government, Federal government
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: New Drug Application (0910-0001)—EXTENSION/NO CHANGE
Respondents: Drug Manufacturers
Subject: Medical Device and Laboratory Product Problem Reporting Program (0910-0143)—EXTENSION/NO CHANGE
Respondents: Individuals, health care professionals
OMB Desk Officer: Bruce Artim

Health Resources and Services Administration

Subject: Health Professions Student Loan and Nursing Student Loan Programs—Administrative Requirements (0915-0044)—REVISION
Respondents: Individuals, households, and not for profit institutions
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Medicaid Quality Control (MQC) Disposition List (0938-0173)—REVISION
Respondents: State Medicaid agencies
Subject: Report of Medical Review Activity—NEW
Respondents: Professional Standards Review Organization
Subject: Request for Information—Medicare Payment for Services to Patients now Deceased (0938-0020)—REINSTATEMENT
Respondents: Persons assuming legal responsibility for a deceased beneficiary's unpaid medical bills
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Report and Recordkeeping Requirements Under Title XX of the Social Security Act, the Social Services Block Grant Program, Specifically Section 2004 and 2006 (0980-0125)—EXTENSION/NO CHANGE
Respondents: States
Subject: Protection and Advocacy Program Annual Performance Report—NEW
Respondents: States
OMB Desk Officer: Milo Sunderhauf

Social Security Administration

Subject: Quarterly Performance Report (0960-0317)—REVISION
Respondents: State governments
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: December 23, 1983.

Gary G. Arnold,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-34635 Filed 12-29-83; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

Urine Monitoring Study of Workers Exposed to 4,4'-Methylene Dianiline (MDA); Case-Control Studys of Lung Cancer in Black Males and Non-Smokers; National Mesothelioma Registry; Case-Control Surveillance To Test Hypotheses Generated by Computerized Maps; Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Urine Monitoring Study of Workers Exposed to 4,4'-Methylene Dianiline (MDA)

Date: January 6, 1984.
Time: 1 p.m. to 5 p.m.
Place: Conference Room C, 5555 Ridge Avenue, Cincinnati, Ohio 45213.
Purpose: To discuss the protocol for the development of a urine monitoring procedure for workers exposed to 4,4'-methylene dianiline (MDA).

Additional information may be obtained from: Mark Boeniger, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684-4363, Commercial: 513/684-4363.

1. *Case-Control Study of Lung Cancer in Black Males.*
2. *Case-Control Study of Lung Cancer in Non-Smokers.*
3. *National Mesothelioma Registry.*
4. *Case-Control Surveillance To Test Hypotheses Generated by Computerized Maps.*

Date: January 24, 1984.
Time: (1) 8 a.m. to 10 a.m.; (2) 10 a.m. to 12 noon; (3) 1 p.m. to 3 p.m.; (4) 3 p.m. to 5 p.m.
Place: Conference Room C, 5555 Ridge Avenue, Cincinnati, Ohio 45202.
Purpose: The first and second meetings will be held to discuss the protocols for surveillance studies, "Case-Control Study of Lung Cancer in Black Males" and "Case-Control Study of Lung Cancer in Non-Smokers," respectively. The third meeting will be a discussion of the protocol for establishment of a national mesothelioma registry. The protocol for a surveillance activity using death certificate case-control studies to test hypotheses generated by geographic correlation analysis will be the subject of the fourth meeting.

Additional information may be obtained from: Robert Dubrow, M.D., Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: FTS: 684-4332, Commercial: 513/684-4332.

Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Dated: December 21, 1983.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 83-34600 Filed 12-29-83; 8:45 am]

BILLING CODE 4160-19-M

National Institutes of Health

National Advisory Allergy and Infectious Diseases Council; Allergy and Immunology Subcommittee, Microbiology and Infectious Diseases Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittee on January 26-27, 1984, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20205.

The meeting will be open to the public on January 26 from approximately 9:00 a.m. to 9:30 a.m. for opening remarks of

the Institute Director and again from 1:30 p.m. to approximately 5:00 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussion will be on genetic engineering of live recombinant vaccines. In addition, staff will present an overview of the Institute's training program. these presentations will be followed by general Council discussion. On January 27 the meeting will be open to the public from approximately 9:00 a.m. to 9:30 a.m. for the reports of the program directors. attendance by the public at all open sessions will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on January 26. The meeting of the full Council will be closed from approximately 10:00 a.m. until adjournment on January 27 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Thomas Flavin, Office of Research Reporting and Public Response, National Institute of Allergy and Infectous Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: December 15, 1983.

Betty J. Beveridge,

HIH Committee Management Officer.

[FR Doc. 83-34625 Filed 12-29-83; 8:45 am]

BILLING CODE 4140-01-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, March 4–7, 1984, at the Hyatt Regency Tampa, 2 Tampa City Center, Tampa, Florida 33602.

This meeting will be open to the public on March 4, 1984, from 8:00 p.m. to 9:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 4 from approximately 9:00 p.m. to recess, and from 8:00 a.m. on March 5 to adjournment on March 7, for the review, discussion and evaluation of individual grant applications and a contract proposal. These applications, the contract proposal, and the discussions could reveal personal information concerning individuals associated with the applications and contract proposal, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members. Dr. Charles G. Hollingsworth, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 558B, phone (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: December 15, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-34626 Filed 12-29-83; 8:45 am]

BILLING CODE 4140-01-M

National Advisory Dental Research Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on January 30–31, 1984, in Conference Room 8, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to recess on January 30 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on January 31 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Dixie Kanagy, Council Secretary for the National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20205, (phone 301 496–7723) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840-Caries Research, 13.841-Periodontal Diseases Research, 13.842-Craniofacial Anomalies Research, 13.843-Restorative Materials Research, 13.844-Pain Control and Behavioral Studies, 13.845-Dental Research Institutes, 13.878-Soft Tissue Stomatology and Nutrition Research, National Institutes of Health.)

Dated: December 15, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-34628 Filed 12-29-83; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the

following study sections for February through March 1984, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings wil be closed thereafter in accordance with the provisions set for in Sections 52(c)(4) and 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquires Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	February-March 1984 meetings	Time	Location
Allergy & Immunology, Dr. Eugene Zimmerman, Rm. 320, Tel. 301-496-7380	Mar. 1-3	8:30	Holiday Inn, Georgetown, DC.
Bacteriology & Mycology-1, Dr. Milton Gordon, Rm. 304, Tel. 301-496-7340	Feb. 15-17	8:30	Holiday Inn, Georgetown, DC.
Bacteriology & Mycology-2, Dr. William Branche, Jr. Rm. 306, Tel. 301-496-7681	Feb. 15-17	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine, Dr. Joan Rittenhouse, Rm. 232, Tel. 301-496-7109	Feb. 8-10	8:00	Holiday Inn, Rockville, MD.
Biochemical Endocrinology, Dr. Norman Gold, Rm. 226, Tel. 301-496-7430	Mar. 4-7	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Biochemistry-1, Dr. Adolphus P. Toliver, Rm. 318B, Tel. 301-496-7516	Feb. 22-25	9:00	Georgetown Hotel, Washington, DC.
Biochemistry-2, Dr. Alex Liacouras, Rm. 318A, Tel. 301-496-7517	Feb. 23-25	8:30	Holiday Inn, Georgetown, DC.
Bio-Organic & Natural Products Chemistry, Dr. Michael Rogers, Rm. A-27, Tel. 301-496-7107	Feb. 23-25	9:00	Holiday Inn, Georgetown, DC.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301-496-7070	Feb. 16-18	8:30	Room A, Landow Bldg., Bethesda, MD.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	Feb. 14-17	9:00	Ramada Inn, Bethesda, MD.
Cardiovascular & Pulmonary, Dr. Anthony C. Chung, Rm. 2A-04, Tel. 301-496-7316	Feb. 15-17	8:00	Linden Hill Hotel, Bethesda, MD.
Cardiovascular & Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901	Feb. 13-15	8:30	Holiday Inn, Georgetown, DC.
Cellular Biology and Physiology-1, Dr. Gerald Greenhouse, Rm. 336, Tel. 301-496-7396	Feb. 15-17	8:30	Room 3, Bldg. 31A, Bethesda, MD.
Cellular Biology and Physiology-2, Dr. Evelyn Horenstein, Rm. 306, Tel. 301-496-7681	Feb. 27-29	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078	Feb. 15-17	8:00	Room 9, Bldg. 31C, Bethesda, MD.
Diagnostic Radiology, Dr. Catharine Wingate, Rm. 219B, Tel. 301-496-7650	Feb. 27-29	8:30	Holiday Inn, Georgetown, DC.
Endocrinology, Mr. Morris M. Graff, Rm. 333, Tel. 301-496-7346	Feb. 6-8	3:00 p.m.	Holiday Inn, Georgetown, DC.
Epidemiology & Disease Control-1, Dr. Phyllis B. Evaleth, Rm. 203C, Tel. 301-496-7246	Feb. 14-16	8:30	Capital Holiday Inn, Washington, DC.
Epidemiology & Disease Control-2, Dr. Ann Schluederberg, Rm. 203B, Tel. 301-496-7246	Feb. 14-16	8:30	Capital Holiday Inn, Washington, DC.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301-496-7940	Feb. 23-Mar. 1	8:00	Marbury House, Georgetown, DC.
Experimental Immunology, Dr. David Lavrin, Rm. 222B, Tel. 301-496-7238	Feb. 29-Mar. 2	9:00	Holiday Inn, Georgetown, DC.
Experimental Therapeutics, Dr. Ira Kline, Rm. 319A, Tel. 301-496-7839	Feb. 24-25	8:30	Holiday Inn, Bethesda, MD.
Experimental Virology, Dr. Eugene Zebovitz, Rm. 206, Tel. 301-496-7474	Feb. 13-15	8:30	Room 6, Bldg. 31C, Bethesda, MD.
General Medicine A, Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797	Feb. 27-29	8:30	Room 10, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Antonia Novello, Rm. 322, Tel. 301-496-7730	Feb. 7-10	8:30	Holiday Inn, Georgetown, DC.
Genetics, Dr. David Remondini, Rm. 349, Tel. 301-496-7271	Feb. 16-18	9:00	Room 6, Bldg. 31C, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Rm. 225, Tel. 301-496-7494	Feb. 29-Mar. 2	8:30	Georgetown Hotel, Georgetown, DC.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301-496-7508	Feb. 23-25	8:00	Holiday Inn, Georgetown, DC.
Hematology-2, Dr. Bruce Maurer, Rm. 355B, Tel. 301-496-7508	Feb. 22-24	9:00	Holiday Inn, Georgetown, DC.
Human Development & Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025	Feb. 22-24	9:00	Georgetown Hotel, Washington, DC.
Human Development & Aging-2, Dr. Samuel Rawlings, Rm. 305, Tel. 301-496-7640	Feb. 29-Mar. 2	9:00	Holiday Inn, Georgetown, DC.
Human Development & Aging-3, Dr. Kate McGuire, Rm. 340, Tel. 301-496-7248	Feb. 23-24	9:00	Georgetown Hotel, Washington, DC.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 221, Tel. 301-496-7597	Feb. 28-Mar. 2	8:30	Westpark Hotel, Rosslyn, VA.
Immunobiology, Dr. William Stylos, Rm. 222A, Tel. 301-496-7780	Feb. 15-17	8:30	Holiday Inn, Bethesda, MD.
Immunological Sciences, Dr. Lottie Kornfeld, Rm. 233A, Tel. 301-496-7179	Feb. 29-Mar. 2	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 349, Tel. 301-496-7271	Feb. 9-11	8:30	Holiday Inn, Georgetown, DC.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. A-27, Tel. 301-496-7107	Mar. 7-9	9:00	Holiday Inn, Chevy Chase, MD.
Metabolism, Dr. Robert Leonard, Rm. 339A, Tel. 301-496-7091	Mar. 1-3	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Metallobiochemistry, Dr. Marjam Behar, Rm. 310, Tel. 301-496-7733	Feb. 4-6	9:00	Miramar Hotel, Santa Barbara, CA.
Microbial Physiology & Genetics-1, Dr. Rodney Ulane, Rm. 238, Tel. 301-496-7183	Feb. 22-24	8:30	Holiday Inn, Bethesda, MD.
Microbial Physiology & Genetics-2, Dr. Gerald Liddel, Rm. 357, Tel. 301-496-7130	Feb. 22-24	8:30	Marriott Hotal, Tyson's Corner
Molecular & Cellular Biophysics, Dr. Patricia Straat, Rm. 236A, Tel. 301-496-7060	Mar. 4-6	8:30	Holiday Inn, Silver Spring, MD.
Molecular Biology, Dr. Donald Disque, Rm. 328, Tel. 301-496-7830	Feb. 16-18	8:30	Holiday Inn, Georgetown, DC.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	Feb. 16-18	8:30	Marbury House, Georgetown, DC.
Neurological Sciences, Dr. Edwin Bartos, Rm. 439B, Tel. 301-496-7280	Feb. 23-25	8:30	Marriottt Hotel, Washingotn, DC.
Neurology A, Dr. Catherine Woodbury, Rm. 326, Tel. 301-496-7095	Feb. 15-18	8:30	Wellington Hotel, Washington, DC.
Neurology B-1, Dr. Willard McFarland, Rm. 2A05, Tel. 301-496-7422	Feb. 28-Mar. 2	8:30	Wellington Hotel, Washington, DC.
Neurology B-2, Dr. Herman Teitelbaum, Rm. 2A05, Tel. 301-496-7422	Feb. 21-24	9:30	Linden Hill Hotel, Bethesda, MD.
Nutrition, Dr. John Schubert, Rm. 204, Tel. 301-496-7178	Feb. 29-Mar. 2	8:30	Room 3, Bldg. 31A, Bethesda, MD.
Oral Biology & Medicine, Dr. Thomas M. Tarpley, Jr., Rm. 325, Tel. 301-496-7818	Feb. 27-Mar. 1	8:30	Linden Hill Hotel, Bethesda, MD.
Orthopedics & Musculoskeletal, Ms. Ileen Stewart, Rm. 350, 301-496-7581	Mar. 1-3	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Pathobiochemistry, Dr. Clarice Gaylord, Rm. A-26, Tel. 301-496-7820	Feb. 22-25	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Pathology A, Dr. Robert M. Conant, Rm. 337, Tel. 301-496-7305	Feb. 22-24	8:00	Holiday Inn, Bethesda, MD.
Pathology B, Dr. Martin Padarathsingh, Rm. 352, Tel. 301-496-7244	Feb. 29-Mar. 2	8:30	Ramada Inn, Bethesda, MD.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	Feb. 14-16	8:00	Holiday Inn, Bethesda, MD.
Physical Biochemistry, Dr. Jeanne Ketley, Rm. 218B, Tel. 301-496-7120	Feb. 29-Mr. 2	9:00	Holiday Inn, Bethesda, MD.
Phsiological Chemistry, Dr. Harry Brodie, Rm. 339B, Tel. 301-496-7837	Feb. 15-17	8:30	Holiday Inn, Bethesda, MD.
Physiology, Dr. Martin Frank, Rm. 209, Tel. 301-496-7878	Feb. 15-18	9:00	Linden Hill Hotel, Bethesda, MD.
Radiation, Dr. Asher Hyatt, Rm. 219A, Tel. 301-496-7073	Mar. 5-7	9:00	Room 9, Bldg. 31C, Bethesda, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318	Feb. 7-10	8:30	Ramada Inn, Bethesda, MD.
Respiratory & Applied Physiology, Dr. Nathan Watzman, Rm. 218A, Tel. 301-496-7320	Feb. 27-29	8:30	Linden Hill Hotel, Bethesda, MD.
Sensory Disorders & Language, Dr. Michael Halasz, Rm. 225, Tel. 301-496-7550	Feb. 15-17	8:30	Capital Holiday Inn, Washington, DC.
Social Sciences & Population, Ms. Carol Campbell, Rm. 210, Tel. 301-496-7906	Feb. 16-18	8:30	Quality Inn Embassy Suites, Washington, DC.
Surgery & Bioengineering, Dr. Paul F. Parakkal, Rm. 303A, Tel. 301-496-7506	Feb. 16-17	8:30	Wellington Hotel, Washington, DC.

Study section	February–March 1984 meetings	Time	Location
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 319B, Tel. 301–496–7771	Feb. 23–24	8:30	Holiday Inn, Bethesda, MD.
Toxicology, Ms. Faye J. Calhoun, Rm. 205, Tel. 301–496–7570	Feb. 22–24	8:00	Marbury House, Georgetown, DC.
Tropical Medicine & Parasitology, Dr. Betty June Myers, Rm. 110, Tel. 301–496–7846	Feb. 13–15	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Virology, Dr. Claire Winestock, Rm. 309, Tel. 301–496–7605	Mar. 8–10	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Visual Sciences A–1, Dr. Orvil Bolduan, Rm. 207, Tel. 301–496–7000	Feb. 16–18	9:00	Marriott Hotel, Washington, DC.
Visual Sciences A–2, Dr. Jane Hu, Rm. 439A, Tel. 301–496–7310	Feb. 29–Mar. 2	8:30	Holiday Inn, Georgetown, DC.
Visual Sciences B, Dr. Luigi Giacometti, Rm. 325, Tel. 301–496–7251	Mar. 7–9	9:00	Holiday Inn, Georgetown, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13,337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: December 15, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-34627 Filed 12-29-83; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, Division of Cancer Treatment, Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, February 16–17, 1984, Building 31, 6th Floor, "C" Wing, Conference Room 10, Bethesda, Maryland 20205. This meeting will be open to the public on February 16, 1984, from 8:30 a.m. until 3:30 p.m. and again on February 17, from 8:30 a.m. until adjournment, to review program plans, contract recompetitions and budget for the DCT program. In addition, there will be a scientific review by one of the programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 16, from approximately 4:00 p.m. to adjournment, for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–52, National Institutes of Health, Bethesda, Maryland 20205 (301/496–4291) will furnish substantive program information.

Dated: December 20, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-34629 Filed 12-29-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–83–1316; FR–1859]

Section 202 Loans for Housing for the Elderly or Handicapped; Announcement of Fund Availability for Fiscal Year 1984

Correction

In FR Doc. 83–34133, beginning on page 56858 in the issue of Friday, December 23, 1983, the effective date appearing in the third column of page 56858 should read, "December 23, 1983."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Establishment of New System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior, Minerals Management Service (MMS), proposes to establish a new system of records notice. The new records system notice is titled "Payroll/Personnel Data—Interior, EMM–7, and contains payroll and personnel records of Minerals Management Service employees. The records system does not contain newly-created records, but represents records that were transferred from other bureaus in the Department when MMS was established. The notice is published in its entirety below.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on this proposal can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before January 30, 1984 will be considered. The system notice shall be effective as proposed without further notice at the end of the comment period unless comments are received which would require a contrary determination.

Dated: December 21, 1983.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/EMM–7

SYSTEM NAME:

Payroll Personnel Data—Interior, EMM–7.

SYSTEM LOCATION:

Department of the Interior, Minerals Management Service, Financial Management Division, Mail Stop 632, 12203 Sunrise Valley Drive, Reston, Virginia 22091. Minerals Management Service-wide. Records contained in this system are part of the departmental intergrated system (PAY/PERS) maintained for the Bureau in a computer operated by the Bureau of Reclamation which is located in Denver, Colorado.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Minerals Management Service employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee identification, pay rate and grade, retirement, and location data; length of service; pay, leave, time and attendance, allowances, and cost distribution records; deductions for FICA, savings bonds, insurance, union dues, taxes, allotments, quarters, charities; overtime authorizations, awards, shift schedules, pay differentials, IRS tax lien data; and related personnel data. Also included is information on debts owed to the Government as a result of overpayment, refunds owed, or a debt referred for collection on a transferred employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for fiscal operations for payroll, attendance, leave, insurance, tax, retirement and cost accounting programs; and to prepare related reports to other Federal agencies including the Treasury Department and the Office of Personnel Management. Disclosures outside the Department of the Interior may be made: (1) To the Department of the Treasury for preparation of payroll checks and other checks to Federal, State, and local government agencies, nongovernmental organizations, and individuals; (2) to the Internal Revenue Service and to State, local, tribal and territorial governments for tax purposes; (3) to the Office of Personnel Managment in connection with programs administered by that office; (4) to another Federal agency to which an employee has transferred; (5) to the U.S. Department of Justice when related to litigation or anticipated litigation; (6) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statue, rule, regulation, or order, where the dislosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) to a congressional office from the records of an individual in response to an inquiry from that congressional office made at the request of the individual; (8) to a Federal Agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (10) to appropriate Federal and State agencies to provide required reports including data on unemployment insurance; (11) to the Social Security Administration to report FICA deductions; (12) to labor unions to report union dues deductions; (13) to insurance carriers to report withholdings for health insurance; (14) to charitable institutions to report contributions; and (15) to a Federal Agency for the purpose of collecting a debt owed the Federal Government through administrative or salary offset.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer media with input forms and printed outputs in manual form.

RETRIEVABILITY:

Indexed by name and indentifying number of the employee.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computer and manual records.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Records Schedule 2.

SYSTEM MANAGER(S) AND ADDRESS:

Financial Records: Chief, Financial Management Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 632, Reston, Virginia 22091.

Personnel Records: Chief, Personnel Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 634, Reston, Virginia 22091.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the individual seeks information concerning his/her records is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, supervisors, timekeepers, official personnel records, previous employers, Internal Revenue Service.

[FR Doc. 83-34636 Filed 12-29-83; 8:45 am]
BILLING CODE 4310-MR-M

Commission on Fair Market Value Policy for Federal Coal Leasing; Business Meeting of the Commission

SUMMARY: Notice is hereby given that the Commission on Fair Market Value Policy for Federal Coal Leasing will hold Business Meetings on January 10 and 16, 1984. The January 10 meeting will be held in room 740 at 1925 K St., NW., Washington, D.C., and the January 16 meeting will be held in the Brick Room, also at 1925 K St., NW. The January 10 meeting will convene at 1:00 p.m. and the January 16 meeting will convene at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: F. Scott Bush, Executive Director, or Sorrell Caplan, Public Affairs Director, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 20036. Phone: (202) 632-6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Pub. L. 98-63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92-463).

The Commission on Fair Market Value Policy for Federal Coal Leasing will hold Business Meetings on January 10 and 16, 1984, to discuss revisions to the Commission's recommendations and report.

The Commission was established by Pub. L. 98-63 approved by President Reagan on July 30, 1983, to review Federal coal leasing statutes, policies and procedures to ensure receipt of fair market value. To complete its mandate, the Commission will:

a. Examine the current statutes, policies and procedures to ensure receipt of fair market value of Federal coal leases;

b. Evaluate efforts to improve the Department's program; and

c. Recommend improvements in those statutes, policies, and procedures.

Dated: December 24, 1983.

David F. Linowes,

Chairman.

[FR Doc. 83-34696 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

Intent To Amend the King Range National Conservation Area Management Framework Plan and To Prepare a Wilderness Environmental Impact Statement for the King Range and Chemise Mountain Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to 43 CFR 1610.2(c) and 40 CFR 1501.7 notice is hereby given that the Arcata Resource Area, Ukiah District, California will prepare an amendment to the King Range National Conservation Area Management Framework Plan (MFP). This amendment will identify issues and alternatives for preparation of an environmental impact statement of the wilderness recommendations for the King Range Wilderness Study Area (WSA) and the Chemise Mountain Instant Study Area (ISA).

DATES: Scheduled for completion by August 1985 are the draft study report and the preliminary final environmental impact statement for the two WSAs.

FOR FURTHER INFORMATION CONTACT: Timothy P. Julius, Planning and Environmental Coordinator, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482, Telephone (707) 462-3873.

SUPPLEMENTARY INFORMATION: The King Range National Conservation Area (KRNCA) is situated 230 road miles north of San Francisco on the Pacific Coast. Two WSAs were identified within the boundaries of the KRNCA during the inventory phase: King Range (CA-050-112) and Chemise Mountain (CA-050-111). These two WSAs will be studied for wilderness suitability through this planning amendment process. Some of the same issues which were developed during the preparation of the original King Range legislation and activity plan are relevant for this process and are: primitive values versus (1) off-road vehicle use, especially along the beach, (2) timber harvesting, and (3) mining and mineral leasing. Other possible concerns are: (1) wind energy potential, (2) impacts to private inholdings, and (3) loss of hunter access. An interdisciplinary team will prepare the amendment and environmental impact statement. Disciplines to be represented on the team include specialists in forestry, recreation, wildlife and fisheries, geology, soils, cultural resources, visual resources, and wilderness.

Alternatives to be analyzed are: (1) all wilderness, (2) no wilderness (no action) which is continued implementation of the approved King Range management plan, (3) partial wilderness, which is designation only of Chemise Mountain as wilderness, and (4) partial wilderness, which is a boundary adjustment of the study areas to conform with the original zones to reduce resource conflicts, as well as an array of other feasible partial wilderness alternatives. The details of these alternatives will be developed further during the study process.

Opportunities for public participation will be announced through the media, a mailing list, and personal contact. A public hearing will be scheduled; the time, date, and location of hearings or meetings will be announced through the media, the mail, and the Federal Register.

Dated: December 21, 1983.

Ronald D. Hofman,

Acting State Director.

[FR Doc. 83-34569 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-40-M

Conveyance; Arizona

[A 18895]

Notice is hereby given that, pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), the following tracts of land in Yuma County were sold at public auction held at Gila Bend, Arizona, on September 15, 1983:

Identification	Legal discription	Acres	Selling price
A 18895-A (Aztec Tract 4), Patent No. 02-84-0014, Buyer: Kazue Y. Fisher, P.O. Box 15591, Phoenix, Arizona 85060.	T. 7 S., R. 11 W., Sec. 6, SE¼	160	$36,000.00
A 18895-B (Turtleback Tract 7), Patent No. 02-84-0016, Buyer: Richard J. Beeble, Barbs Hill Road, Greene, Rhode Island 02827.	T. 3 S., R. 11 W., Sec. 28, S½SW¼, Sec. 33, NW¼	240	60,000.00
A 18895-L (Turtleback Tract 11), Patent No. 02-84-0018, Buyer: Richard J. Beeble, Barbs Hill Road, Greene, Rhode Island 02827.	T. 3 S., R. 11 W., Sec. 33, SW¼	160	42,400.00

The following tract in Yavapai County sold at public auction at Wickenburg, Arizona on September 20, 1983:

Identification	Legal discription	Acres	Selling price
A 18899-F (Tract 6), Patent No. 02-84-0015, Buyers: Thomas A. Baum, Eleanor P. Baum, Dan Shupe and Carolyn Shupe, P.O. Box 622, Wickenburg, Arizona 85358.	T. 8 N., R. 5 W., Sec. 15 S½SW¼NW¼	20	40,000.00

The purpose of this notice is to inform the public and interested State and local government officials of the issuance of patents to the lands.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-34581 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-32-M

[A-18453]

Arizona; Conveyance and Order Providing for Opening of Public Lands; Correction

December 21, 1983.

In FR Doc. 83-31329, appearing on page 52773, on Tuesday, November 22, 1983, make the following corrections:

1. In T. 26 N., R. 14 W., sec. 19, the legal description is revised to read: all land north and west of a diagonal line evenly dividing the section from the southwest corner to the northeast corner.

2. In T. 26 N., R. 15 W., sec. 35, the legal description is revised to read: all land north and west of a diagonal line evenly dividing the section from the southwest corner to the northeast corner.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-34582 Filed 12-29-83; 8:45 am]

Billing Code 4310-32-M

[OR-35951-B]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified sale and conveyed to the party shown: Joseph K. Irby, Olex Star Route, Arlington, Oregon 97812.

Willamette Meridian, Oregon

T. 1 S., R. 22 E.,
Sec. 29, SE1/4NE1/4

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Irby.

Dated: December 16, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-34585 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-33-M

[OR-35322 WA]

Washington; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Ferry County, was purchased by direct sale and conveyed to the party shown: Town of Republic, Washington, Republic, Washington 99166.

Willamette Meridian, Washington

T. 36 N., R. 33 E.,
Sec. 6, lot 13.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Town of Republic.

Dated: Dec. 16, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-34584 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-33-M

[OR 36316 (Wash)]

Washington; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Okanogan County, was purchased by modified competitive sale and conveyed to the party shown: Mr. & Mrs. Patrick Siemion, 1300 Highway 2, Leavenworth, Washington 98826.

Willamette Meridian, Washington

T. 35 N., R. 28 E.,
Sec. 22, N½NW¼NW¼, SE¼NW¼NW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. and Mrs. Siemion.

Dated: December 21, 1983.

Leland D. Morrison,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-34590 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-33-M

Exchange of Public Lands in Garfield and Wayne Counties for Private Lands in Juab County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management act of 1976, 43 U.S.C. 1716:

Garfield County

T. 31 S., R. 8 E., Salt Lake Base and Meridian, Utah,
Sec. 19, lots 3, 4, S½NE¼, SE¼NW¼, NE¼SW¼;
Sec. 30, Lot 1;
Sec. 31, NW¼NE¼, NE¼NW¼.
T. 31 S., R. 7 E., Salt Lake Base and Meridian, Utah,
Sec. 25, S½SW¼, SW¼SE¼;
Sec. 34, N½NE¼.

Wayne County

T. 29 S., R. 5 E., Salt Lake Base and Meridian, Utah
Sec. 7, N½SE¼NE¼, E½SW¼SE¼NE¼, SE¼SE¼NE¼, E½SE¼;
Sec. 8, SW¼NW¼, W½SE¼;
Sec. 18, lots 3 and 4 (exclusive of acreage in R&PP lease U-6234 in Lot 3);
Sec. 19, lot 1, NE¼, E½NW¼;
Sec. 33, W½SW¼NE¼NW¼SE¼, W½NE¼NW¼SE¼, NW¼NW¼NW¼SE¼, S½NW¼NW¼SE¼, SW¼NW¼SE¼, NW¼SE¼NW¼SE¼, S½SE¼NW¼SE¼, SW¼SE¼.
T. 29 S., R. 4 E., Salt Lake Base and Meridian, Utah
Sec. 13, NE¼SE¼;
Sec. 24, S½NE¼.
T. 30 S., R. 5 E., Salt Lake Base and Meridian, Utah
Sec. 10, NW¼SE¼.
Total: 1,354.81 Acres (approx.)

In exchange for these lands, the United States will acquire the following described private lands which are located in the Little Sahara Recreation Area:

Juab County

T. 13 S., R. 4 W., Salt Lake Base and Meridian, Utah
Sec. 5, S½S½;
Sec. 7, E½NE¼, SE¼;
Sec. 8, NW¼NW¼;
Sec. 16, All;
Sec. 18, NE¼, N½SE¼, SE¼SE¼;
Sec. 19, lots 2, 3, 4, E½NE¼.
Total: 1,588.96 Acres.

Acquisition of these private lands will help consolidate lands in the Recreation Area into Federal ownership which is necessary to meet management objectives for the area, hence management control would be considerably easier. With better land management in the Recreation Area, the public interest would be better served.

The values of the lands to be exchanged are approximately equal. Ful equalization of values will be achieved by making acreage adjustments and/or by cash payment to the United States by the proponent upon completion of the final appraisal.

The exchange involves the surface estate only of the private lands to be acquired. The Federal mineral estate will be transferred with the exceptions as stated below.

The public lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. The patent will include a reservation to the United States for rights-of-way for ditches and canals constructed under the Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation for all oil and gas to the United States. In addition, the sand and gravel will also be reserved on T. 29 S., R. 5 E., Section 7, E½SE¼SE¼.

3. The United States reserves to itself, its permittees, and lessees, the right of access to enter upon the land to prospect for, mine and remove the minerals owned by the United States. This reservation includes all necessary and incidental activities conducted in accordance with the provisions of the mineral leasing and material disposal laws in effect at the time such activities are undertaken, including, without limitation, all drilling, surface mining operations, storage and transportation facilities deemed necessary and authorized under such laws and their implementing regulations.

4. The patent will be subject to all valid, existing rights including all rights-of-way located on the lands.

Publication of this notice in the **Federal Register** segregates the public lands, described above, from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this Notice will terminate upon issuance of patent or in two years, whichever occurs first.

Detailed information concerning the exchange is available for review at the Richfield District Office, 150 East 900 North, Richfield, Utah 84701.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Richfield District Manager at the above address. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

Donald L. Pendleton,

District Manager.

December 22, 1983.

[FR Doc. 83-34580 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-DQ-M

[Colorado 29702]

Oil and Gas Lease; Colorado; Proposed Reinstatement

Notice is hereby given that a petition for reinstatement of oil and gas lease C-29702 for lands in Bent County, Colorado was timely filed and was accompaned by all the required rentals and royalties accruing from November 1, 1983, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective November 1, 1983, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Barbara Benz of the Colorado State Office at (303) 837-5551.

Evelyn W. Axelson,

Acting Chief, Mineral Leasing Section.

[FR Doc. 83-34585 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-JB-M

Carson City District Advisory Council; Meeting

DATE: January 27, 1983; 9:00 a.m.

ADDRESS: BLM Office, 1050 E. William St., Suite 344, Carson City, Nevada.

SUPPLEMENTARY INFORMATION: The agenda will include the election of officers, the concerns of small miners, concerns of Dixie Valley residents, and Council plans for 1984. The public is invited, and anyone may appear before the Council at 11:00 a.m.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, Public Affairs Officer, BLM, 1050 E. William St., Suite 335, Carson City, NV 89701; (702) 882-1631.

Thomas J. Owen,

District Manager.

[FR Doc. 83-34586 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-HC-M

Roseburg District Advisory Council; Meeting

Notice is hereby given that in accordance with Section 309 of the Federal Land Policy and Management Act (as amended), the Roseburg District Advisory Council will meet on January 27, 1984. The meeting will convene at 9:30 a.m. in the conference room at the Roseburg District Office, 777 NW. Garden Valley Blvd., Roseburg, OR. Agenda items will include: (1) Election of Council officers for Calendar Year 1984; (2) discussion of the North Umpqua River Area of Critical Environmental Concern; (3) proposed regulatory changes in BLM land sale procedure as printed in the Federal Register of Dec. 6, 1983; (4) an overview of the minerals program in the Roseburg BLM District; (5) analysis of the vandalism/theft problem on public lands, with specific aim of eliciting Council's ideas on how best to control the problem.

All Council meetings are open to the public. Interested persons or organizations may make oral statements to the Council at 11:15 a.m., or they may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager by January 20, 1984. Depending on the number of persons wishing to speak, a per person time limit may be established by the District Manager.

Summary minutes of each Council meeting will be maintained in the Roseburg District Office and will be available for public inspection and photocopying during regular business hours withing 30 days following the meeting.

For additional information, contact Gary Majors, Public Information Officer, telephone (503) 672-4491.

Dated: December 15, 1983.

James E. Hart,

District Manager.

[FR Doc. 83-34587 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-84-M

[W-86389]

Realty Action; Proposed Noncompetitive Sale of Public Lands in Carbon County, Wyoming

December 19, 1983.

The following described lands have been found suitable for disposal and are proposed for sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than fair market value.

Legal description	Acreage
T. 14 N., R. 82 W., 6th P.M., Wyo., Sec. 21: NE¼SE¼	40.0
T. 14 N., R. 82 W., 6th P.M., Wyo., Sec. 28: SE¼NE¼	40.0

The lands are being sold noncompetitively to Platt Ranches, Inc. The purpose of this sale is to facilitate land-use planning in the area and to enhance land-use compatibility with adjoining lands. These parcels are small isolated tracts which are difficult to manage as part of the public lands. All surrounding lands are owned by Platt Ranches, Inc.

They are unsuitable for management by another federal agency. There are no significant resource values which would be affected by this disposal. The proposed sale is consistent with Bureau Planning and is compatible with County Plans. The public interest would be served by making this land available for public sale.

Patent for the land, if issued, would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1980, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metaliferous and non-metaliferous locatable minerals, leasable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources, and salable minerals such as sand and gravel. However, upon filing of an application under 43 CFR 2720, the State Director may convey the mineral interest if all requirements of the law are met.

3. The land would be sold subject to valid existing rights of record on the date of conveyance.

Detailed information concerning the proposed sale, including the planning documents, and the land report/environmental assessment, is available for review at the Bureau of Land Management, Rawlins District Office, 1300 North Third Street, Rawlins, Wyoming 82301. The proposed sale will not be held until 60 days after the date of this notice.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Rawlins District Manager, Bureau of Land Management, Rawlins District Office, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

David J. Walter,

District Manager.

[FR Doc. 83-34580 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-22-M

Washington; Filing of Plats of Survey

The plats of survey of the islands located within the townships described below will officially be filed in the Oregon State Office, Bureau of Land Management, Portland, Oregon, effective at 10:00 a.m., February 1, 1984.

Willamette Meridian

T. 36 N., R. 1 E.,
Sec. 6, North Peapod Rock.

T. 35 N., R. 1 W.,
Sec. 2, Island No. 1, Black Rock;
Sec. 7, Island No. 3, Flower Island;
Sec. 11, Island No. 2, Pointer Island;
Sec. 25, Island No. 4, South Bird Rocks; Island No. 5, Middle Bird Rocks; Island No. 6, North Bird Rocks;
Sec. 27, Island No. 7, Dot Rock.
Totaling 6.76 acres.

T. 36 N., R. 1 W.,
Sec. 1, Island No. 1, Middle Peapod Rock; Island No. 2, South Peapod Rock;
Sec. 15, Island No. 3, Brown Rock;
Sec. 19, Island No. 4, Shag Rock.
Totaling 1.72 acres.

T. 37 N., R. 1 W.,
Sec. 13, Island No. 1, Little Sister Island; Island No. 2, Unnamed in Sister Group; Island No. 3, Unnamed in Sister Group; Island No. 4, Lone Tree Island.
Totaling 4.90 acres.

T. 36 N., R. 2 W.,
Sec. 5, Island No. 1, Skull Island;
Sec. 16, Island No. 2, Oak Island;
Sec. 17, Island No. 3, Victim Island;
Sec. 27, Island No. 4, Blind Island;
Sec. 30, Island No. 5, Unnamed; Island No. 6, Unnamed; Island No. 7, Unnamed; Island No. 8, Unnamed; Island No. 9, Unnamed; Island No. 10, Unnamed; Island No. 11, Unnamed;
Sec. 32, Island No. 12, Unnamed.
Totaling 14.02 acres.

Some islands are barren rock or partly submerged, and others have vegetation consisting of brush, grass, and trees.

Some islands are withdrawn for the San Juan Islands National Wildlife Refuge, administerred by the U.S. Fish and Wildlife Service; others are leased by the State of Washington for recreation and public purposes; one is a navigational aid for the U.S. Coast Guard.

All inquiries relating to these lands should be sent to the Oregon State Office, Bureau of Land Management, 825 N. E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-34586 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-33-M

Steese National Conservation Area, Alaska; Availability of Draft Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Notice that the Draft Resource Management Plan and Environmental Impact Statement for the Steese National Conservation Area, Alaska, is available for review and comment.

SUMMARY: The draft Resource Management Plan (RMP) and Environmental Impact Statement (EIS) presents a range of resource management alternatives and the consequences of implementing each alternative. The draft RMP/EIS and associated background material is available for public review at the Fairbanks District Office, Fairbanks, Alaska. Requests for information should be addressed to: Mike Green, Yukon Area Manager, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707; telephone (907) 356-5367.

Public comments on the draft RMP/EIS should be submitted to the person and address noted above. Comments will be accepted for ninety days, from December 30, 1983 to March 30, 1984. Public meetings to accept oral comments will be held at the Public Library in Fairbanks, Alaska, at 7:00 p.m. on February 27, 1984; and at the Arctic Circle Hot Springs Lodge in Circle Hot Springs, Alaska, at 7:00 p.m. on February 29, 1984.

Supplementary information: The RMP will guide future management actions on public lands within the Steese National

Conservation Area, northeast of Fairbanks, Alaska. BLM manages nearly all of the approximately 1.2 million acres within the unit.

The RMP will be a comprehensive land use plan. The planning process included identifying significant issues, establishing planning criteria, assessing resource capability, and formulating reasonable alternatives to address the issues. Alternatives range from favoring resource protection to favoring resource use. The consequences of implementing each alternative are presented in the EIS. Resource Management Plans are authorized by the Federal Land Management Policy Act of 1976. Standards, guidelines, and procedures for RMP preparation are contained in 43 CFR Part 1600.

An interdisciplinary team was used to develop the RMP. Disciplines included were wildlife biology, soil conservation, socioeconomics, fire management, geology, recreation management, hydrology, fishery biology, realty, and archaeology.

Major issues addressed in the RMP are recreation, mining, access, subsistence use, caribou range, and Birch Creek National Wild River.

Curtis V. McVee,

State Director.

December 21, 1983.

[FR Doc. 83-34633 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-JA-M

White Mountains National Recreation Area, Alaska; Availability of Draft Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Notice that the Draft Resource Management Plan and Environmental Impact Statement for the White Mountains National Recreation Area, Alaska, is available for review and comments.

SUMMARY: The draft Resource Management Plan (RMP) and Environmental Impact Statement (EIS) presents a range of resource management alternatives and the consequences of implementing each alternative. The draft RMP/EIS and associated background material is available for public review at the Fairbanks District Office, Fairbanks, Alaska. Requests for information should be addressed to: Mike Green, Yukon Area Manager, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707; telephone (907) 356-5367.

Public comments on the draft RMP/EIS should be submitted to the person and address noted above. Comments will be accepted for ninety days, from December 30, 1983 to March 30, 1984. Public meetings to accept oral comments will be held at the Public Library in Fairbanks, Alaska, at 7:00 p.m. on February 27, 1984; and at the Arctic Circle Hot Springs Lodge in Circle Hot Springs, Alaska, at 7:00 p.m. on February 29, 1984.

SUPPLEMENTARY INFORMATION: The RMP will guide future management actions on public lands within the White Mountains National Recreation Area, northeast of Fairbanks, Alaska. BLM manages nearly all of the approximately one million acres within the unit.

The RMP will be a comprehensive land use plan. The planning process included identifying significant issues, establishing planning criteria, assessing resource capability, and formulating reasonable alternatives to address the issues. Alternatives range from favoring resource protection to favoring resource use. The consequences of implementing each alternative are presented in the EIS. Resource Management Plans are authorized by the Federal Land Management Policy Act of 1976. Standards, guidelines, and procedures for RMP preparation are contained in 43 CFR Part 1600.

An interdisciplinary team was used to develop the RMP. Disciplines included were wildlife biology, soil conservation, socioeconomics, fire management, geology, recreation management, hydrology, fishery biology, realty, and archaeology.

Major issues addressed in the RMP are recreation, mining, access, subsistence use, wildlife, and Beaver Creek National Wild River.

Dated: December 21, 1983.

Curtis V. McVee,

State Director.

[FR Doc. 83-34632 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-JA-M

Bureau of Reclamation

Contract Negotiations for Water Service From Glendo Reservoir, Wyoming; Intent To Negotiate Water Service Contracts

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Bureau of Reclamation intends to reinitiate negotiations with Central Nebraska Public Power and Irrigation District of Nebraska and intends to begin negotiations with three additional potential contractors, Mitchell Irrigation District in Nebraska, Corn Creek Irrigation District in Wyoming, and Earl Michael, a private irrigator in Wyoming, for water service from the Glendo Unit, Pick-Sloan Missouri Basin Program, Wyoming.

The proposed water service contracts annually will provide Central Nebraska Public Power and Irrigation District with up to 8,000 acre-feet, Corn Creek Irrigation District with up to 10,000 acre-feet, Earl Michael with up to 500 acre-feet, and Mitchell Irrigation District with up to 5,000 acre-feet of additional carryover storage space. The cost of the uncommitted water will range from $5 to $7 per acre-foot per year. Availability of the water is dependent upon return flows, transportation, and other water loss criteria. The initial rate will be subject to periodic review and adjustment at 5-year intervals throughout the life of the contracts.

The Glendo Unit was authorized by the Flood Control Act of 1944 (58 Stat. 887). The unit was constructed under a modified plan as presented in the Definite Plan Report of December 31, 1952, approved by the Act of July 16, 1954 (68 Stat. 486, Pub. L. 503, 83d Cong., 2d sess.).

At the request of the States of Colorado, Wyoming, and Nebraska, the Supreme Court of the United States on June 13, 1953 (345 U.S. 981), amended the decree entered on October 8, 1945, in the case of *Nebraska* v. *Wyoming* (325 U.S. 589, 665), limiting the total amount of water that may be used for irrigation purposes from storage accumulated in Glendo Reservior in any year to 40,000 acre-feet. Of this amount, 25,000 acre-feet was to be used for irrigation in Nebraska and 15,000 acre-feet was to be used for irrigation in Wyoming. Of that original 40,000 acre-feet, 8,000 acre-feet of Nebraska's allocation and 10,600 acre-feet of Wyoming's allocation is currently uncommitted.

All meetings scheduled by the Bureau with each of the interested entities for the purpose of discussing terms and conditions of the proposed water service contracts shall be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties having previously furnished a written request for such notice at least 1 week prior to any meeting. Requests should be addressed to the Regional Director, Bureau of Reclamation, Attention: LM-440, P.O. Box 25247, Denver, Colorado 80225. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act of

September 6, 1966 (80 Stat. 383), as amended.

The public is invited to submit written comments on the forms of the proposed contracts not later than 30 days after the completed contract drafts are declared to be available to the public. Unless significant public interest in the proposed contract is demonstrated in response to this notice, the availability of the negotiated draft contracts will not be published. The Commissioner of Reclamation will review comments submitted and based on the number, source, and nature of the comments, a decision will be made whether to hold a public hearing.

For further information on scheduled contract negotiating sessions and copies of the proposed contract form, please contact Robin D. McKinley or Marvin E. Nystrom, Repayment Branch, at the address stated above, telephone 234–3327 or 234–6562, respectively.

Dated: December 23, 1983.

Robert A. Olson,

Acting Commissioner of Reclamation.

[FR Doc. 83-34636 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information collection requirement and supporting documentation may be obtained by contacting Lloyd M. Tracey at (703) 860–7916. Comments and suggestions on the collection of information should be made directly to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503, with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; Department of the Interior, 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Outer Continental Shelf Order No. 5, "Production Safety Systems."
Bureau Form Number: None
Frequency: On occasion
Description of Respondents: Federal oil and gas lessees performing production operations offshore
Annual Responses: 888
Annual Burden Hours: 2,664

Dated: December 16, 1983.

Price McDonald,

Acting Associate Director for Offshore Minerals Management

[FR Doc. 83-34596 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related materials may be obtained by contacting Terry Van Houten at (703) 860–6461. Comments and suggestions on the collection of information should be made directly to the Office of Information and Regulatory Affairs; Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503; with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: OCS Order No. 8, "Platforms and Structures"
Bureau Form Number: None
Frequency: On Occasion
Description of Respondents: Federal oil and gas lessees performing offshore operations under OCS Order No. 8, "Platforms and Structures"
Annual Responses: 130
Annual Burden Hours: 74,800

Dated: December 16, 1983.

Price McDonald,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 83-34597 Filed 12-29-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of railroad cost adjustment factor.

SUMMARY: The Commission has decided to approve a restated version of the cost index filed by the Association of American Railroads (AAR) under the procedures of Docket Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*. The index has been restated to include the Consolidated Railroad Corporation's (Conrail) labor costs at the national contract level in order to satisfy the provisions of the Northeast Rail Service Act of 1982. The Commission restated index produces a Rail Cost Adjustment Factor (RCAF) of 1.053 rather than the 1.046 figure proposed by AAR. Application of the RCAF provides for a maximum increase of 4.1 percent above the level authorized in our decision served September 21, 1983.

EFFECTIVE DATE: December 27, 1983.

FOR FURTHER INFORMATION CONTACT:

Robert C. Hasek, (202) 275–0938; Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR 22594, April 20, 1981), we outlined the procedures for the calculation of the Interim Mid-Quarter Index of railroad costs and the methodology for computation of the RCAF. AAR was required to calculate and submit the Interim Mid-Quarter Index to the Commission no later than 20 days before the end of each quarter.

By notice served December 19, 1983, the Commission stated, "The labor portion of the index shall be computed including labor costs for the Consolidated Railroad Corporation (Conrail) restated at national contract levels, and actual labor costs for all other railroads included in the index. The labor index figures for the first quarter of 1984 will be restated to include Conrail at the national contract level. This would have the effect of computing the index in a manner similar to that proposed by the Commission in its decision served June 20, 1983 and by the AAR in its petition for reconsideration dated October 7, 1983."

We have modified AAR's calculations of the Interim Mid-Quarter Index for the first quarter 1984. The index has been restated to include Conrail's labor costs at the national contract level in order to satisfy the provisions of the Northeast Rail Service Act of 1982. The 1982 base year straight time hourly pay rate was computed by adding the amount of labor cost savings realized by Conrail to the amount of actual wage payments for all railroads included in the index (including Conrail) and, dividing this total by the total straight time hours paid for by all railroads. This base year straight time hourly pay rate was increased to a first quarter 1984 level by applying national contract increase provisions to the base year pay rate. The calculations of the other portions of

the Interim Mid-Quarter Index comply with the guidelines contained in our decision served April 17, 1981.

We find the RCAF for the first quarter of 1984 is 1.053. This provides for a maximum increase of 4.1 percent above the level authorized in our decision served September 20, 1983.

INTERIM MID-QUARTER INDEX

Line No.	Category	1980 weights (pct)	1982 weights (pct)	Third quarter 1983 actual[1]	Fourth quarter 1983 forecast[2]	First quarter 1984 forecast[2]
1	Salaries, Wages and Supplements	47.2	48.3	137.1	138.3	147.8
2	Fuel	12.3	11.3	96.3	101.2	100.6
3	Materials and Supplies	12.2	10.4	103.7	103.6	102.3
4	Other Expenses	28.3	30.0	113.3	113.2	114.9
5	Weighted Average:					
	a. 1980=100 (1982 weights)				123.0	127.9
	b. 1980=100 (1980 weights)			121.5	[3]122.4	127.3
6	Rail Cost Adjustment Factor [4] (10/1/82=100) (120.9=100).			[5]1.005	1.012	1.053

[1] Rail cost adjustment factor computed using 1980 weights.
[2] Rail cost adjustment factor computed using 1982 weights.
[3] Linking necessitated by change of weights from 1980 to 1982. The following formula was used: 1st Quarter 1984 Index (1982 Weights)/4th Quarter 1983 Index (1982 Weights) X 4th Quarter 1983 Index (Linked Index)=Linked Index (1980 Weights to 1982 Weights) or 127.9÷123.0 X 122.4=127.3.
[4] Based on 10/1/82=120.9 denominator rebased to an October 1, 1982 level in accordance with the requirements of the Staggers Rail Act of 1980.
[5] For comparative purposes an RCAF for the third quarter 1983 is shown using actual data. The published RCAF is computed using forecasted data.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. Although this proceeding is not subject to Public Law 96-354, it is our opinion that it will not have a significant adverse impact on a substantial number of small entities.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Dated: December 22, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-34612 Filed 12-29-83; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b) (1) that the below named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

The parent corporation is: James River Corporation, Tredegar Street, P.O. Box 2218, Richmond, VA 23217.

The wholly-owned subsidiaries which will participate in the operations are as follows:

Riverside Transportation, Inc. (formerly Riverside Trucking Co.) a Virginia corporation, Richmond, Virginia 23224

James River Paper Company, a Virginia corporation, Papermaking Division, Tredegar Street, P.O. Box 2218, Richmond, Virginia 23217

James River Paper Company, a Virginia corporation, Converting Division, Tredegar Street, P.O. Box 2218, Richmond, Virginia 23217

James River—Rochester, Inc., a Virginia corporation, Adams Division, 115 Howland Avenue, Adams, Massachusetts 01220

James River—Rochester, Inc., a Virginia corporation, Rochester Division, 340 Mill Street, Rochester, Michigan 48663

Riegel Products Corporation, a Delaware corporation, Frenchtown road, Milford, New Jersey 08848

James River—Curtis, Inc., a Virginia corporation, Paper Mill Road, Newark, Delaware Mill Newark Delaware 19711

Peninsular Paper Company, a Michigan corporation, Ypsilanti, Michigan Mill, 100 North Huron, Ypsilanti, Michigan 48197

James River—Fitchburg, Inc., a Virginia corporation, Old Princeton Road, Fitchburg, Massachusetts 01220

*James River—Massachusetts, Inc., a Delaware corporation, 701 Westminster Street, Fitchburg, Massachusetts 01420

*James River—Graphics, Inc., a Virginia corporation, 28 Gaylord Street, S. Hadley, Massachusetts 01075

James River—Otis, Inc., a Virginia corporation, P.O. Box 10, Jay, Maine 04239

James River—KVP, Inc., a Delaware corporation, Island Avenue, Parchment, Michigan 49008

James River-Berlin/Gorham, Inc., a Delaware corporation, 650 Main Street, Berlin, New Hampshire 03570

*James River-Groveton, Inc., a Virginia corporation, Groveton, New Hampshire 03582

H. P. Smith Paper Company, an Illinois corporation, 5001 West 66th Street, Chicago, Illinois 60638

H. P. Smith Paper Company, an Illinois corporation, 2000 Industrial Park Road, Iowa City, Iowa 52240

*James River-Norwalk, Inc., a Delaware corporation, P.O. Box 6000, River Park, 800 Connecticut Avenue, Norwalk, Connecticut 06856-6000

The following are divisions of James River-Norwalk, Inc., operating under the following division names:

*James River Corporation, Paperboard Packaging Group, 243 East Paterson Street, Kalamazoo, Michigan 49007

*James River Corporation, Dixie Products Group, P.O. Box 6000, River Park, 800 Connecticut Avenue, Norwalk, Connecticut 06856-6000

*James River Corporation, Towel and Tissue Group, P.O. Box 6000, River Park, 800 Connecticut Avenue, Norwalk, Connecticut 06856-6000

James River Corporation, Paperboard Packaging Group, Gilco Division, 28740 Glenwood, Perrysburg, Ohio 43551

James River Corporation, Paperboard Packaging Group, Superior Match Division, 7530 S. Greenwood Avenue, Chicago, Illinois 60619

The above subsidiaries indicated by an asterisk (*) each have truck fleets of their own. James River-Norwalk, Inc. has truck fleets operating in Neenah, Wisconsin; Darlington, South Carolina; and Old Town, Maine. Compensated intercorporate hauling operations will be performed by and between the subsidiaries of James River Corporation.

1. Parent corporation and address of principal office: Western Stations Co., 420 S.E. 122nd Avenue, P.O. Box 26494, Portland, Oregon 97216.

2. Wholly owned subsidiaries which will participate in the operations and State of incorporation: Western Hyway Oil Co., and Oregon corporation, 420 S.E. 122nd Avenue, P.O. Box 26494, Portland, Oregon 97216.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-34613 Filed 12-29-83; 8:45 am]

BILLING CODE 7035-01-M

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 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report Form R–1
OMB Form No.: 3120–0029
Agency From No.: R–1
Frequency: Annually
Respondents: Class I Railroads
No. of Respondents: 37
Total Burden Hrs.: 29,600
Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Annual Survey Form for Certain Switching & Terminal Companies
OMB Form No.: 3120–0111
Agency Form No.: Switching and Terminal Companies
Frequency: Annually
Respondents: Selected Class III Switching and Terminal Companies
No. of Respondents: 18
Total Burden Hrs.: 72

James H. Bayne,

Acting Secretary.

[FR Doc. 83-34611 Filed 12-29-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30344]

Baltimore and Ohio Railroad Company—Discontinuance of Service Exemption—In Tucker County, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the discontinuance of service by the Baltimore and Ohio Railroad Company over approximately 9.91 miles on the Western Maryland Railway Company rail line between Valuation Station 4060+07 at Thomas and Valuation Station 4538+48 at Hendericks in Tucker County, WV, subject to conditions for protection of employees.

DATES: This exemption is effective on December 30, 1983. Petitions to stay must be filed by January 9, 1984, and petitions for consideration must be filed by January 19, 1984.

ADDRESS: Send pleadings referring to Finance Docket No. 30344 to:

(1) Office of Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201

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 289–4357 (DC Metropolitan arera) or toll free (800) 424–5403.

Decided: December 21, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-34610 Filed 12-29-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–69 (Sub-12X)]

Western Maryland Railway Company—Abandonment—in York County, PA; Exemption

The Western Maryland Railway Company (applicant) has filed a notice of exemption for an abandonment under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is a portion of applicant's York Subdivision between Valuation Station 868+96 and Point of Switch 851+85.5, a distance of 0.32 mile, in York, York County, PA.

Applicant has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Pennsylvania has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on January 31, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 11, 1984 and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by January 21, 1984 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representatives:

Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201
Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: December 23, 1984.

By the Commission, Louis E. Gitomer, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-34609 Filed 12-29-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–6 (Sub-171)]

Burlington Northern Railroad Company—Abandoment—in Ferry County, WA; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company (BN) to abandon its line of railroad between milepost 77.14 near Sanpoil, WA and milepost 80.67 at the end of the line near Republic, WA, in Ferry County, WA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within the 10-day period.

Information and procedures regarding financial assistance for continued rail

service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-34608 Filed 12-29-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Pollution Control; Lodging of Consent Decree Pursuant to the Clean Air Act; Armor Mufflers, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 8, 1983, proposed consent decrees in *United States* v. *Armor Mufflers, Inc.*, Civil Action No. 82-2272, were lodged with the United States District Court for the Western District of Arkansas. The proposed consent decrees provide for the imposition of civil penalties and compliance with the provisions of the Clean Air Act relating to tampering with automotive emission controls.

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 decrees. 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. *Armor Mufflers, Inc.* D.J. Ref 90-5-2-1-343.

The proposed consent decrees may be examined at the Office of the United States Attorney, U.S. Post Office & Courthouse, 6th & Rogers, Ft. Smith, Arkansas 72901 and 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 decrees 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 decrees, please refer to *United States* v. *Armor Mufflers, Inc.*, D.J. Ref. 90-5-2-1-343. In requesting a copy of the decrees, please enclose a check in the amount of $4.40 (10 cents per page reproduction charge) payable to the United States Treasury.

F. Henry Habicht II,

Assistant Attorney General.

[FR Doc. 83-34602 Filed 12-29-83; 8:45 am]

BILLING CODE 4410-01-M

Pollution Control; Lodging of Consent Degree Pursuant to the Clean Water Act; Atlas Processing Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 9, 1983, a proposed consent decree in *United States* v. *Atlas Processing Company*, Civil Action No. CV 83-2370, was lodged with the United States District Court for the Western District of Louisiana. The proposed consent decree provides for a civil penalty of eighty thousand dollars ($80,000) and compliance with the Clean Water Act by Atlas Processing Co.'s refinery in Shreveport, Louisiana.

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. *Atlas Processing Company*, D.J. Ref. 90-5-1-1-2000.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Louisiana, 3B12 Federal Bldg., Shreveport, Louisiana, at the Region VI Office of the Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270 and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 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. *Atlas Processing Company*, D.J. Ref. 90-5-1-1-2000.

F. Henry Habicht II,

Assistant Attorney General.

[FR Doc. 83-34603 Filed 12-29-83; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 83-19]

George Gotsis, M.D., Lorain, Ohio; Hearing

Notice is hereby given that on July 14, 1983, the Drug Enforcement Administration, Department of Justice, issued to George Gotsis, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AG2944088.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, January 10, 1984 in the U.S. Tax Court Courtroom, Room 2975, A. J. Celebrezze Federal Building, 1240 E. Ninth Street, Cleveland, Ohio.

Dated: December 23, 1983.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 83-34657 Filed 12-29-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-26]

Murray Pharmacy, Ogden, Utah; Hearing

Notice is hereby given that on July 22, 1983, the Drug Enforcement Administration, Department of Justice, issued to Murray Pharmacy, an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AM3128039.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, January 25, 1984, in the Mine Safety and Health Review Commission Hearing Room, Suite 400, 333 W. Colfax Avenue, Denver, Colorado.

Dated: December 23, 1983.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 83-34658 Filed 12-29-83; 8:45 am]

BILLING CODE 4410-09-M

Importer of Controlled Substances; Registration

By Notice dated April 20, 1983, and published in the **Federal Register** on May 2, 1983 (48 FR 19800), McNeilab, Inc., 803 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670)	II

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated December 22, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-34659 Filed 12-29-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated April 20, 1983, and published in the **Federal Register** on May 2, 1983 (48 FR 19800), McNeilab, Inc., 803 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Morphine (9300)	II
Thebaine (9333)	II

No comments or objections have been received. Therefore pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 22, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-34660 Filed 12-29-83; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

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

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Office will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Occupational Safety and Health Administration
Organizational statement for fire brigades
On occasion
Businesses or other for-profit
2,750 responses; 269 hours

The organizational statement describes what the fire brigade is expected to do, and will help employees understand their duties and responsibilities as fire brigade members. It will also inform compliance officers of the type of fire-fighting which will be performed, and if the level of training is consistent with that type of firefighting.

Revision

Employment and Training Administration
NLS—Survey of Work Experience of Mature Women
1205-0044; LGT-3121
Annually
Individuals or households
3,800 responses; 1,710 hours

The Department of Labor will use this information to determine the employment and training needs and develop programs designed to ease the employment and unemployment problems faced by women aged 47-61. These women were aged 30-44 when this longitudinal survey began in 1967.

Extension (Burden Change)

Bureau of Labor Statistics
Producer Price Indices, by Industry
1200-0008, BLS 473P; BLS 1810 A, B, C, W, E, AF
Monthly
Business or other for-profit; Federal agencies or employees; small businesses or organizations
19,100 responses; 245,800 hours; 6 forms

These forms are used to collect price information for the Producer Price Index, which is one of the nation's most important economic indicators. The burden will increase each year until a steady-state is reached in early 1986.

Bureau of Labor Statistics
Pricing Collective Bargaining Settlements-Public Sector

1200–0048, BLS 3116 B and BLS 3116 C
Upon negotiation of new agreement (once every 2–3 years)
State or local governments
450 responses; 450 hours; 2 forms

This form is needed to continue publishing statistics on negotiated compensation changes in State and local government units of 5,000 or more workers and begin publishing statistics on negotiated wage changes in units of 1,000 or more. Statistics are for general economic analysis. Respondents are State and local bargaining units with 1,000 or more workers.

Signed at Washington, D.C., this 27th day of December 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-34716 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Abex Corp. et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 12, 1983—December 16, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivisions have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,769; Abex Corp., Denison Div., Marysville, OH

TA–W–14,766' TPR, Inc., Vega Baja, P.R.

TA–W–15,016; Milwaukee Solvay Coke Co., Milwaukee, WI

TA–W–14,615; DME Co., Darlington, PA

TA–W–14,970; ASARCO, Inc., Corpus Christi, TX

TA–W–14,786; Cornell-Dubilier Electronics, New Bedford, MA

TA–W–14,831; Jones & Lamson Machine Co., Waterbury Farrel Div., Springfield, VT

TA–W–14,913; Alaric Textiles International Corp., New York, NY

TA–W–14,467; Colquitt Leather Manufacturing Co., Moultrie, GA

TA–W–14,513; Fairlawn Fashions, Inc., Linden, NJ

TA–W–14,638; I.M. Industries, Lake St. Louis, MO

TA–W–14,975; Dresser Industries, Inc., Ideco Div., Beaumont, TX

TA–W–14,424; Western Electric Co., Kearny, NJ

TA–W–14,394; Midland Ross Corp., Grimes Galley Products, Mansfield, OH

TA–W–14,655; The S.P. Manufacturing Corp., Solon, OH

TA–W–14,716; Sand's Manufacturing Corp., Brooklyn, NY

TA–W–14,910; Runida Mining, Inc., West Logan, WV

TA–W–14,748; Cleveland Cliffs Iron Co., Tilden Mine, Ishpeming, MI

TA–W–14,749; Cleveland Cliffs Iron Co., Republic Mine, Ishpeming, MI

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,897; Forged Products Div. of Gulf & Western Manufacturing Co., Houston, TX

TA–W–14,624; Elgin Joliet & Eastern Railway Co., Gary Mill Yard, Gary, IN

TA–W–14,625; Elgin Joliet & Eastern Railway Co., Kirk Yard, Gary, IN

TA–W–14,723; Saucony Shoe Manufacturing Co., Macungie, PA

TA–W–14,724; Saucony Shoe Manufacturing Co., Alburtis, PA

TA–W–14,725; Saucony Shoe Manufacturing Co., Emmaus, PA

TA–W–14,807; Dresser Industries, Inc., Security Div., Dallas, TX

TA–W–14,808; Dresser Industries, Inc., Guiberson Div., Dallas, TX

Affirmative Determinations

TA–W–14,506; Parade Dress Co., Inc., New York, NY

A certification was issued covering all workers separated on or after October 1, 1982 and before October 31, 1983.

TA–W–14,797; Wilson Sporting Goods Co., Cortland, NY

A certification was issued covering all workers separated on or after June 15, 1982 and before December 9, 1983.

TA–W–14,984; The River Terminal Railway Co., Cleveland, OH

A certification was issued covering all workers separated on or after August 30, 1982 and before January 1, 1983.

TA–W–14, Dantec, Inc., Bloomington, IN

A certification was issued covering all workers separated on or after May 2, 1982 and before August 31, 1983.

TA–W–14, 826; Bessemer & Lake Erie Railroad Co., Greenville, PA

A certification was issued covering all workers separated on or after July 8, 1982.

TA–W–14, 942; Bessemer & Lake Erie Railroad Co., Monroeville, PA

A certification was issued covering all workers separated on or after August 19, 1982.

TA–W–14, 928; Lesco Trucking Co., Lone Star, TX

A certification was issued covering all workers separated on or after August 5, 1982

TA–W–14, 938; Texas & Northern Fabricators, Inc., Lone Star, TX

A certification was issued covering all workers separated on or after August 5, 1982.

TA–W–14, 939; Texas & Northern Railway Co., Lone Star, TX

A certification was issued covering all workers separated on or after August 5, 1982.

TA–W–14, 750; Eveleth Mines, Eveleth & Fairlane, MN

A certification was issued covering all workers separated on or after January 1, 1983.

TA–W–14, 586; Alta Products corp., Wilkes-Barre, PA

A certification was issued covering all workers separated on or after April 5, 1982.

TA–W–14, 601; Minotola Industries, Inc., Vineland, NJ

A certification was issued covering all workers separated on or after June 1, 1982.

TA–W–14, 876; G.H. Bass & Co./Bangor Plant, Bangor, ME

A certification was issued covering all workers separated on or after July 1, 1983.

TA–W–14, 652; Microdott Fastening Systems, Central Screw—Frankfort Div., Frankfort, KY

A certification was issued covering all workers separated on or after August 1, 1982 and before August 1, 1983.

TA–W–14, 703; Shuron Div., Textron, Inc., Rochester, NY

A certification was issued covering all workers separated on or after August 1, 1983.

TA–W–14, 789; International Salt Co., Detroit, MI

A certification was issued covering all workers separated on or after January 1, 1983.

TA–W–14, 699; Phoenix Iron Works, Oakland, CA

A certification was issued covering all workers separated on or after May 25, 1982.

TA–W–14, 127 and TA–W–14, 128; Rouge Steel Co., Dearborn, MI

A certification was issued covering all workers separated on or after January 1, 1983.

TA–W–14, 500; Domino Classics, New York, NY

A certification was issued covering all workers separated on or after November 26, 1982 and before June 30, 1983.

TA–W–14, 579; General foods Corp., Maxwell House Div., Hoboken, NJ

A certification was issued covering all workers engaged in the production of soluble coffee separated on or after October 1, 1982.

I hereby certify that the aforementioned determinations were issued during the period December 12, 1983–December 16, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 20, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-34706 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,469]

Foote Mineral Company, New Johnsonville, Tennessee; Dismissal of Application For Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Foote Mineral Company, New Johnsonville, Tennessee. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, a dismissal of the application was issued.

TA–W–14,469; Foote Mineral Company, New Johnsonville, TN (December 21, 1983)

Signed at Washington, D.C. this 22nd day of December 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-34705 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,608]

Jones & Laughlin Specialty Steels, Inc., Detroit, Michigan; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 83–32864 appearing on page 55526 in the **Federal Register** of December 13, 1983 the above captioned decision was erroneously submitted under Affirmative Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance under petitioner Jones & Laughlin Specialty Steels, Incorporated, Detroit, Michigan, TA–W–14,608. It is corrected to read as follows:

Negative Determinations

In the following case the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,608; Jones & Laughlin Specialty Steels, Inc., Detroit, MI.

Signed at Washington, D.C. this 20th day of December 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-34708 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-27-M]

Anderson Milling Company; Petition for Modification of Application of Mandatory Safety Standard

Anderson Milling Company, 2116 So. 750 West, Woods Cross, Utah 84087 has filed a petition to modify the application of 30 CFR 56.18–20 (employees working alone) to its Anderson Mill (I.D. No. 42–01760) located in Toole County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that no employee be assigned, or allowed, or be required to perform work alone in any area where hazardous conditions exist that would endanger his or her safety unless he or she can communicate with others, can be seen, or can be heard.

2. As an alternate method, petitioner proposes to install a radio which will allow radio contact at all times with the person that is working.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 30, 1984. Copies of the petition are available for inspection at that address.

Dated: December 20, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-34711 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-128-C]

Blue Diamond Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Blue Diamond Mining, Inc., P.O. Box 87, Leatherwood, Kentucky 41756 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Justus Mine (I.D. No. 15–02363) located in McCreary County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries.

2. A single intake was driven for the east main section. Because of a fault condition lying parallel to the east main course, the roof was not able to be supported.

3. As an alternate method, petitioner proposes to ventilate the east main face areas using the belt entry as an intake aircourse until mine development can be

advanced enough to readjust ventilation. During times of production, qualified individuals will be present at all times in the affected area and be equipped with carbon monoxide detectors, methane detectors, and air volume measuring instruments. Suitable tests will be made periodically to ensure that air reaching the sections does not contain harmful or noxious gases, and is of sufficient quality to ventilate the faces.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 30, 1984. Copies of the petition are available for inspection at that address:

Dated: December 20, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-34715 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-122-C]

Camp Fork Fuel Company; Petition for Modification of Application of Mandatory Safety Standard

Camp Fork Fuel Company, Drawer C, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 4 Mine (I.D. No. 15-08333) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that air coursed through belt haulage entries not be used to ventilate active workings.

2. The mine is in the Elkhorn seam, and ranges from 34 to 38 inches in height. A 3-entry system was developed by a continuous mining machine with a continuous belt-haulage system. The mine was being driven beneath a hollow; the numbers 1 and 2 entries were advanced in by the hollow, but the number 3 entry, which is the intake airway, could not be advanced beyond the hollow because of adverse roof conditions.

3. As an alternate method, petitioner proposes to use the intake air in the number 2 entry, which is the belt conveyor entry, to ventilate the working section. After the number 3 entry is picked up in by the hollow, a stopping will be installed across the number 2 entry to divert the air back into the number 3 entry. Only 80 feet of the belt entry will be affected.

4. Petitioner states that the alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 30, 1984. Copies of the petition are available for inspection at that address.

Dated: December 20, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-34712 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-127-C]

Eastern Associated Coal Corporation; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, Koppers Building, Pittsburgh, Pennsylvania 15219, has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Lightfoot No. 2 Mine (I.D. No. 46-04955) located in Boone County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries.

2. Longwall panels are being developed in the 2 Panel Left section. Approximately six panels are planned, with projected depths varying from 4,000 to 6,000 feet.

3. As an alternate method, petitioner proposes to use a single entry system for both belt conveyor haulage and section return air, as follows:

a. The combination belt/return entry will be continuously monitored for methane and carbon monoxide by sensors installed at approved locations with audible and visual indicators installed at a manned location;

b. A close return will be provided for ventilation of power centers, charging station, etc., if needed;

c. All power connections in the belt/return will be permissible and/or intrinsically safe;

d. The entry will be maintained in accordance with existing regulations, including water outlets each 300 feet, fire hoses at approved locations, and stop switches each 1,000 feet;

e. The entry will be maintained at a level of no less than 80 percent incombustibility at all times and a rockdusting machine will be available for use when needed; and

f. The belt will be single flight and will not be used to transport personnel.

4. Petitioner states that the proposed alternate method will:

a. Improve roof control due to the capability to develop narrower entries;

b. Improve ventilation because intake and track entires will be isolated, providing fresh air to the face areas. Positive ventilation will be provided to the track entry, which will remove any possible accumulation of explosive gases;

c. Eliminate or lessen abutment pressures, thereby reducing floor heaving which is common in four entry systems;

d. Provide for better maintenance of the return aircourse as an airway and travelway since more frequent examinations for hazardous conditions would be required due to the conveyor belt being in the same entry.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 30, 1984. Copies of the Petition are available for inspection at that address.

Dated: December 20, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-34713 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-17-M]

Meyer Construction Company; Petition for Modification of Application of Mandatory Safety Standard

Meyer Construction Company, 2500 Ninth Avenue, So., P.O. Box 2846, Fargo, North Dakota 58108 has filed a petition to modify the application of 30 CFR 55.4-27 (fire extinguishers on self-propelled mining equipment) to its Hughes Pit (I.D. No. 32-00617) located in Williams County, North Dakota and its Meyer Operation (I.D. No. 24-01279) located in Yellowstone County, Montana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-propelled mobile equipment be provided with a suitable fire extinguisher readily accessible to the equipment operator.

2. Because of the vibration of the equipment, the powder in the dry chemical extinguishers tends to pack; when the extinguisher is used, only a little amount of powder around the end of the probe discharges and all the air is gone in an instant.

3. As an alternate method, petitioner proposes to have extinguishers readily accessible to all equipment working in the area.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 30, 1984. Copies of the petition are available for inspection at that address.

Dated: December 20, 1983.

Patricia W. Silvey,

Mr. **Hanley,**

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-34714 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-18-M]

Northern Improvement Company; Petition for Modification of Application of Mandatory Safety Standard

Northern Improvement Company, P.O. Box 1254, Bismarck, North Dakota 58501-1254 has filed a petition to modify the application of 30 CFR 55.4-27 (fire extinguishers on self-propelled mobile equipment) to its Benedict Pit and Mill (I.D. Nos. 21-01287 and 21-01240) located in Clay County, Minnesota; its McDonald Pit (I.D. No. 32-00186), its McCormick Pit (I.D. No. 32-00317), its Agnew Pit (I.D. No. 32-00318), its Nelson Pit (I.D. No. 32-00319), and its McDonald Wash Plant (I.D. No. 32-00320), all located in Burleigh County, North Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-propelled mobile equipment be provided with a suitable fire extinguisher readily accessible to the equipment operator.

2. Because of the vibration of the equipment, the powder in the dry chemical extinguishers tends to pack; when the extinguisher is used, only a little amount of powder around the end of the probe discharges, and all the air is gone in an instant.

3. As an alternate method, petitioner proposes to have extinguishers readily accessible to all equipment working in the area.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 30, 1984. Copies of the petition are available for inspection at that address.

Dated: December 20, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-34710 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-24-M]

Tenneco Minerals; Petition for Modification of Application of Mandatory Safety Standard

Tenneco Minerals, P.O. Box 1167, Green River, Wyoming 82935 has filed a petition to modify the application of 30 CFR 57.21-53 (stoppings in crosscuts) to its Tenneco Soda Ash Project (I.D. No. 48-01295) located in Sweetwater County, Wyoming. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that stoppings in crosscuts between intake and return airways, on entries other than room entries, be built of solid, substantial material; exposed surfaces be made of fire-resistant material or, if the material mined is combustible, stoppings be made of incombustible material.

2. As an alternate method, petitioner proposes to construct stoppings in any crosscut with styrofoam blocks approximately 24 inches high and 20 inches thick with joints and perimeter sealed with rigid urethane foam. Petitioner states that this construction would provide safer conditions for miners while providing excellent ventilation control throughout the mine.

3. Petitioner further states that the light-weight styrofoam blocks will reduce the potential for injury associated with stoppings construction. In the event of ground movement, styrofoam block stoppings behave like large squeeze blocks, easily crusing and conforming to the new opening shape while maintaining and possibly improving tight joints and perimeter contact. Little or no short-circuiting of ventilation air would occur. The material is not likely to propagate flame, but does shrink in size immediately and melts when exposed to flame temperature heat. If a fire occurs near a stopping, the shrinkage would result in a rapid and desirable short-circuit of air directly into the return entries, carrying away any harmful fumes and gases from the fire with it and preventing them from circulating to the face areas and the miners.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson

Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 30, 1984. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-34709 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-43-M

Wage and Hour Division

Certificates Authorizing the Employment of Learners at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR Parts 1949–53 Comp., p. 1004), and Administrative Order No. 1–76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended). The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Flushing Shirt Mfg., Co., Inc., Frostburg, MD; 10–24–83 to 9–23–84; 10 learners. (Men's shirts)

McCreary Mfg., Co., Stearns, KY; 12–8–83 to 12–7–84. (Men's shirts)

Monticello Mfg. Co., Inc., Monticello, KY; 12–8–83 to 12–7–84. (Men's and boys' shirts)

Junior Form Lingerie Inc., Boswell, PA; 10–11–83 to 10–10–84; 5 percent of the total number of factory production workers for normal labor turnover purpose. (Ladies' underwear and sleepwear)

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learners occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before January 16, 1984.

Signed at Washington, D.C., this 23rd day of December 1983.

Authur H. Korn,

Authorized Representative of the Administrator.

[FR Doc. 83-34707 Filed 12-29-83; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-99]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Electronics.

DATE AND TIME: January 23–24, 1984, 8:00 a.m. to 5:00 p.m. each day.

ADDRESS: Jet Propulsion Laboratory, Building 238, Room 543, Pasadena, California 9113.

FOR FURTHER INFORMATION CONTACT: Mr. Duncan McIver, National Aeronautics and Space Administration, Code RTH–6, Washington, DC 20546 (202/755–3273).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Electronics was established to review and make recommendations on NASA research and technology programs and plans in space electronics which include microelectronics devices, sensors, communications, robotics and teleoperation, and control technology. The Subcommittee, chaired by Donald C. Fraser, is comprised of 11 members. The meeting will be open to the public up to the seating capacity of the room (approximately 45 persons including the Subcommittee members and participants).

Type of Meeting: Open.

Agenda

January 23, 1984

8:00 a.m.—Opening Remarks.
8:20 a.m.—Overview of Office of Aeronautics and Space Technology Space Controls Program.
8:30 a.m.—Jet Propulsion Laboratory Space Controls Program.
11:00 a.m.—Langley Research Center Space Controls Program.
1:00 p.m.—Marshall Space Flight Center Space Controls Program.
2:00 p.m.—Johnson Space Center Space Controls Program.
2:30 p.m.—Discussion.
5:00 p.m.—Adjourn.

January 24, 1984

8:00 a.m.—Space Station Guidance Navigation and Control Test Bed.
9:00 a.m.—Galileo Test Bed.
9:30 a.m.—Jet Propulsion Laboratory Electronics Program.
1:00 a.m.—Control of Flexible Structures Overview.
1:30 p.m.—Discussion.
5:00 p.m.—Adjourn.

Dated: December 23, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-34595 Filed 12-29-83; 8:45 am]

Billing Code 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Office for Partnership Meeting;

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Office for Partnership (State Programs Section) to the National Council on the Arts will be held on January 25–26, from 9:00 a.m.–5:00 p.m. and January 27, from 9:00 a.m.–4:30 p.m., in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on January 25, from 9:00–10:30 a.m.; January 26, from 9:00 a.m.–10:30 a.m.; January 26, from 2:00–5:00 p.m. and on January 27, from 9:00 a.m.–4:30 p.m. to discuss policy issues and guidelines.

The remaining sessions of this meeting on January 25, from 10:30 a.m.–5:00 p.m. and on January 26, from 10:30 a.m.–12:30 p.m. are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended; including discussion on information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman

published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: December 23, 1983.

John H. Clark

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-34599 Filed 12-29-83; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Recording Section) to the National Council on the Arts will be held on January 19, 1984, from 9:00 a.m.–5:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on January 19, from 2:00 p.m.–2:30 p.m. to discuss Policy issues and guidelines.

The remaining sessions of this meeting on January 19, from 9:00 a.m.–2:00 p.m. and on January 19, from 2:30 p.m.–5:30 p.m. are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion on information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H.Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: December 23, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-34600 Filed 12-29-83; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (American Film Institute Review) to the National Council on the Arts will be held on January 12–13, 1984, from 9:00 a.m.–5:30 p.m. at the Los Angeles County Museum of Art, 5905 Wilshire Blvd., Los Angeles, California 90036.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: December 23, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-34601 Filed 12-29-83; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Overview Section) to the National Council on the Arts will be held on January 9–10, 1984, from 9:00 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on January 9 from 9:00 a.m.–12:30 p.m., to discuss Policy and Guidelines.

The remaining sessions of this meeting on January 9 from 12:30 a.m.–5:30 p.m. and on January 10 from 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Gary O. Larson,

Coordinator, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-34566 Filed 12-29-83; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production Prescreening) to the National Council on the Arts will be held on January 9–11, 1984, from 9 a.m.–5:30 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Gary O. Larson,

Coordinator, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-34567 Filed 12-29-83; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby

given that a meeting of the Media Arts Advisory Panel (Film/Video Production Prescreening) to the National Council on the Arts will be held on January 16–18, 1984, from 9:00 a.m.–5:30 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Gary O. Larson,

Coordinator, Office of Council and Panel Operations National Endorsement for the Arts.

[FR Doc. 83-34568 Filed 12-29-83; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Application Received Under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by January 27, 1984. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 21 July 1983 Federal Register, page 33372.

The application received is as follows:

Applicant: John Dahlman, Zoology Museum, University of Wisconsin, Madison, Wisconsin 53706

Activity for Which Permit Requested: Taking, import into United States. The applicant requests permission to salvage dead specimens (up to 10 Adelie Penguins and 10 South Polar Skuas) for display, enlargement of the research collection, and teaching at the Zoological Museum, University of Wisconsin.

Location: McMurdo Station and Vicinity

Dates: January–February, 1984.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,

Division Director, Division of Polar Programs.

[FR Doc. 83-34569 Filed 12-29-83; 8:45 am]

BILLING CODE 7555-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Establishment of Cogeneration Options Task Force

SUMMARY: On December 15, 1983 in a public meeting in Portland, Oregon, the Nothwest Power Planning Council established a Cogeneration Options Task Force (Task Force) as an advisory committee to the Council. This notice describes the Task Force, provides information on how to obtain notices of Committee meetings, and explains how to request copies of the Task Force's advisory committee charter.

ADDRESSES: Individuals and entities wishing to receive notices of Task Force meetings or copies of the Task Force's advisory committee charter should contact Michele Sterling by writing her at the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon 97205, or by calling her at (toll-free) 1–800–222–3355, from Montana, Idaho, Washington, and California; (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5161, from other states. The charter also is available for inspection and copying in the public reading room of the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, on weekdays between 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Foley, Manager, Conservation and Resources at (toll-free) 1–800–222—3355, from Montana, Idaho, Washington, and California; (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5156, from other states.

SUPPLEMENTARY INFORMATION: On April 27, 1983, the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted the first Northwest Conservation and Electric Power Plan (Plan), as required by the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501, 16 U.S.C. 839 *et seq.* (Act). Action item 13 of the Plan's two-year action plan addresses the concept of acquiring options on resources. Specifically, action item 13 lays out an approach to demonstrate whether the options concept is viable for long-term energy planning. Action item 13.5 is a Council action to explore for each specific resource significant regulatory barriers that could limit the effectiveness of the options program and to propose means of minimizing those limitations. Action item 20.1 directs Bonneville to assist potential cogenerators in gaining access to the tieline. This would allow cogenerators to sell power south during a regional surplus with appropriate callback provisions when needed by the region. Also, action item 20.3 directs Bonneville to "develop a program that will assist potential cogenerators when making regularly scheduled plant modifications, to make appropriate investments that will permit addition of generating equipment at a later date." The activities detailed in action item 13.5 are to be achieved with the assistance of an advisory task force composed of the Council, Bonneville, utilities, and other interested parties. This advisory committee is established as part of a network of advisory committees satisfying the Council's obligation under the Northwest Power Act to establish a Scientific and Statistical Advisory Committee. 16 U.S.C. 839b(c)(11). Under

section 4(a)(4) of the Act, the terms of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, Sections 1–14, apply "to the extent appropriate" to the Council's advisory committees. 16 U.S.C. 839b(a)(4).

The Council established the Cogeneration Options Task Force, named Task Force members, selected a Task Force chairman, and adopted a charter for the Task Force in a public meeting on December 15, 1983, in Portland, Oregon. The charter describes the objectives and activities of the Task Force, its authority, and related matters. It also contains rules for Task Force procedures on meeting notices, public participation, minutes, records, conflicts of interest, and reimbursement of certain Task Force member expenses. Requests for copies of the charter or meeting notices and for additional information may be made as provided above in this notice.

Edward Sheets,

Executive Director.

[FR Doc. 83-34619 Filed 12-29-83; 8:45 am]

BILLING CODE 0000-00-M

Establishment of Options Steering Committee, and Notice of First Meeting

SUMMARY: On December 15, 1983 in a public meeting in Portland, Oregon, the Northwest Power Planning Council established an Options Steering Committee (Committee) as an advisory committee to the Council. This notice describes the Committee, provides information on how to obtain notices of Committee meetings, announces the initial meeting of the Committee, and explains how to request copies of the Committee's advisory committee charter.

DATE: Janaury 6, 1984, 10:30 a.m., Council's central office (see below). The agenda of the first meeting will include:

- The need for a coal options task force
- Options and public preference, how they are related
- KBPA proposal to buy three options on hydro facilities instead of six

ADDRESSES: Individuals and entities wishing to receive notices of Committee meetings or copies of the Committee's advisory committee charter should contact Michele Sterling by writing her at the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon 97205, or by calling her at (toll-free) 1–800–222–3355, from Montana, Idaho, Washington and California; (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5161, from other states. The charter also is available for inspection and copying in the public reading room of the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, on weekdays between 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Foley, Manager, Conservation and Resources at (toll-free) 1–800–222–3355 from Montana, Idaho, Washington, and California; (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5161, from other states.

SUPPLEMENTARY INFORMATION: On April 27, 1983, the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted the first Northwest Conservation and Electric Power Plan (Plan), as required by the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501, 16 U.S.C. 839 *et seq.* (Act). One of the main tenets of the Plan is the concept of acquiring options on resources. The Council views this concept as offering significant advantages when planning for an uncertain future. However, this is a new concept for the region and will require demonstration and development before it can be depended on to provide the necessary degree of flexibility. Action item 13 of the Plan's two-year action plan lays out an approach to work with federal and state agency regulatory bodies to resolve institutional, regulatory, legal and technical barriers to acquiring options as on each resource. Additionally, action item 13 authorizes the establishment of several advisory task forces to identify potential issues related to specific resources and to determine the value of options and the appropriate number of options the region should hold in inventory. The Options Steering Committee is being established to oversee the work of the options task forces and to coordinate the work of the task forces where they overlap. This advisory committee is established as part of a network of advisory committees satisfying the Council's obligation under the Northwest Power Act to establish a Scientific and Statistical Advisory Committee. 16 U.S.C. 839b(c)(11). Under section 4(a)(4) of the Act, the terms of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–14, apply "to the extent appropriate" to the Council's advisory committees. 16 U.S.C. 839b(a)(4).

The Council established the Options Steering Committee, named Committee members, selected a Committee chairman, and adopted a charter for the Committee in a public meeting on December 15, 1983, in Portland, Oregon. The charter describes the objectives and activities of the Committee, its authority, and related matters. It also contains rules for Committee procedures on meeting notices, public participation, minutes, records, conflicts of interest, and reimbusement of certain Committee member expenses. Requests for copies of the charter or meeting notices and for additional information may be made as provided above in this notice.

Edward Sheets,

Executive Director.

[FR Doc. 83-34620 Filed 12-21-83; 8:45 am]

BILLING CODE 0000-00-M

Establishment of the Industrial Conservation Advisory Committee, and Notice of First Meeting

SUMMARY: On December 15, 1983 in a public meeting in Portland, Oregon, the Northwest Power Planning Council established an Industrial Conservation Advisory Committee (Committee) as an advisory committee to the Council. This notice describes the Committee, provides information on how to obtain notices of Committee meetings, announces the initial meeting of the Committee, and explains how to request copies of the Committee's advisory committee charter.

DATE: January 10, 1984, 9:30 a.m., Council's central office (see below).

ADDRESSES: Individuals and entities wishing to receive notices of Committee meetings or copies of the Committee's advisory committee charter should contact Michele Sterling by writing her at the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, 97205, or by calling her at (toll-free) 1–800–222–3355, from Montana, Idaho, Washington, and California; (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5161, from other states. The charter is also available for inspection and copying in the public reading room of the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, on weekdays between 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Foley, Manager, Conservation and Resources at (toll-free) 1–800–222–3355 from Montana, Idaho, Washington, and California; (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5161, from other states.

SUPPLEMENTARY INFORMATION: On April 27, 1983, the Pacific Northwest and Conservation Planning Council (Council) adopted the first Northwest Conservation and Electric Power Plan (Plan), as required by the Pacific Northwest Electric Power Planning and

Conservation Act, Pub. L. 96–501, 16 U.S.C. 839 *et seq.* (Act). Action item 9.2 of the Council's two-year action plan states that the Council will conduct, in cooperation with the region's industrial customers, a detailed survey to identify industrial conservation potential above the 545 megawatts contained in the Council's resource assessment. The survey is to identify all conservation at 5.0 cents per kilowatt-hour or less. The Council has hired Synergic Resources Corporation (SRC) as the contractor to work with industrial customers on the effort. The contract has two phases: (1) The objective of phase one is to arrive at a survey form that is effective in giving the Council adequate information to plan future resource portfolios while protecting the proprietary rights of industry and (2) the second phase, which will be done providing that the Council and industry is in accord at the conclusion of phase one, will implement the survey and develop industrial conservation supply curves for various end uses in the industrial sector. This advisory committee is being formed to advise the Council and its contractor throughout both phases of the contract.

This advisory committee is established as part of a network of advisory committees satisfying the Council's obligation under the Northwest Power Act to establish a Scientific and Statistical Advisory Committee. 16 U.S.C. 839b(c)(11). Under section 4(a)(4) of the Act, the terms of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–14, apply "to the extent appropriate" to the Council's advisory committees. 16 U.S.C. 839b(a)(4).

The Council established the Industrial Conservation Advisory Committee, named Committee members, selected a Committee chairman, and adopted a charter for the Committee in a public meeting on December 15, 1983, in Portland, Oregon. The charter describes the objectives and activities of the Committee, its authority, and related matters. It also contains rules for Committee procedures on meeting notices, public participation, minutes, records, conflicts of interest, and reimbursement of certain Committee member expenses. Requests for copies of the charter or meeting notices and for additional information may be made as provided above in this notice.

Edward Sheets,

Executive Director.

[FR Doc. 83-34621 Filed 12-29-83; 8:45 am]

BILLING CODE 0000-00-M

Establishment of Options Evaluation Task Force

SUMMARY: On December 15, 1983 in a public meeting in Portland, Oregon, the Northwest Power Planning Council established an Options Evaluation Task Force (Task Force) as an advisory committee to the Council. This notice describes the Committee, provides information on how to obtain notices of Task Force meetings, and explains how to request copies of the Committee's advisory committee charter.

ADDRESSES: Individuals and entities wishing to receive notices of Task Force meetings or copies of the Task Force's advisory committee charter should contact Michele Sterling by writing her at the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, 97205, or by calling her at (toll-free) 1–800–222–3355, from Montana, Idaho, Washington and California; (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5161, from other states. The charter also is available for inspection and copying in the public reading room of the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, on weekdays between 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Foley, Manager, Conservation and Resources at (toll-free) 1–800–222–3355 from Montana, Idaho, Washington, and California: (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5161, from other states.

SUPPLEMENTARY INFORMATION: On April 27, 1983, the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted the first Northwest Conservation and Electric Power Plan (Plan), as required by the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501, 16 U.S.C. 839 *et seq.* (Act). Action item 13 lays out an approach to demonstrate whether the options concept is viable for long-term energy planning. Recognizing the current surplus and the opportunity this gives the region to further refine and demonstrate the options concept, the Council has asked for a thorough analysis of the concept. Action items 13.6, 13.7 and 13.8, state that the Council will conduct the specific analyses necessary to demonstrate the efficacy of the concept. This advisory task force is being created to assist the Council in that endeavor. This advisory committee is established as part of a network of advisory committees satisfying the Council's obligation under the Northwest Power Act to establish a Scientific and Statistical Advisory Committee. 16 U.S.C. 839b(c)(11). Under section 4(a)(4) of the Act, the terms of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, Sections 1–14, apply "to the extent appropriate" to the Council's advisory committees. 16 U.S.C. 839b(a)(4).

The Council established the Options Evaluation Task Force, named Task Force members, selected a Task Force chairman, and adopted a charter for the Task Force in a public meeting on December 15, 1983. The charter describes the objectives and activities of the Task Force, its authority, and related matters. It also contains rules for Task Force procedures on meeting notices, public participation, minutes, records, conflicts of interest, and reimbursement of certain Task Force member expenses. Requests for copies of the charter or meeting notices and for additional information may be made as provided above in this notice.

Edward Sheets,

Executive Director.

[FR Doc. 83-34622 Filed 12-29-83; 8:45 am]

BILLING CODE 0000-00-M

Establishment of Hydropower Options Task Force

SUMMARY: On December 15, 1983 in a public meeting in Portland, Oregon, the Northwest Power Planning Council established a Hydropower Options Task Force (Task Force) as an advisory committee to the Council. This notice describes the Task Force, provides information on how to obtain notices of Task Force meetings, and explains how to request copies of the Task Force's advisory committee charter.

ADDRESSES: Individuals and entities wishing to receive notices of Task Force meetings or copies of the Task Force's advisory committee charter should contact Michele Sterling by writing her at the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, 97205, or by calling her at (toll-free) 1–800–222–3355, from Montana, Idaho, Washington and California; (toll-free) 1–800–452–2324 in Oregon; or (503) 222–5161, from other states. The charter also is available for inspection and copying in the public reading room of the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, on weekdays from 8:30 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Foley, Manager, Conservation and Resources at (toll-free) 1–800–222–3355 from Montana, Idaho, Washington, and California; (toll-free) 1–800–452–2324 in

Oregon; or (503) 222-5161, from other states.

SUPPLEMENTARY INFORMATION: On April 27, 1983, the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted the first Northwest Conservation and Electric Power Plan (Plan), as required by the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501, 16 U.S.C. 839 *et seq.* (Act). Action item 13 of the Plan's two-year action plan addresses the concept of acquiring options on resources. Specifically, action item 13 lays out an approach to demonstrate whether the options concept is viable for long-term energy planning. Action item 13.5 is a Council action to explore for each specific resource significant resource barriers that could limit the effectiveness of the options program and to propose means of minimizing those limitations. Also, the Council in action item 14.1 has directed Bonneville, subject to satisfactory resolution of potential regulatory barriers, to acquire options on six hydropower sites. The Council views action item 14.1 as a test of the options concept with respect to hydropower resources. The activities detailed in action item 13.5 are to be achieved with the assistance of an advisory task force composed of the Council, Bonneville, utilities, and other interested parties. This advisory committee is established as part of a network of advisory committees satisfying the Council's obligation under the Northwest Power Act to establish a Scientific and Statistical Advisory Committee. 16 U.S.C. 839b(c)(11). Under section 4(a)(4) of the Act, the terms of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, sections 1-14, apply "to the extent appropriate" to the Council's advisory committees. 16 U.S.C. 839b(a)(4).

The Council established the Hydropower Options Task Force, named Task Force members, selected a Task Force chairman, and adopted a charter for the Task Force in a public meeting on December 15, 1983, in Portland, Oregon. The charter describes the objectives and activities of the Task Force, its authority, and related matters. It also contains rules for Task Force procedures on meeting notices, public participation, minutes, records, conflicts of interest, and reimbursement of certain Task Force member expenses. Requests for copies of the charter or meeting notices and for additional information may be made as provided above in this notice.

Edward Sheets,

Executive Director.

[FR Doc. 83-34623 Filed 12-29-83; 8:45 am]

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirment Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Nonresident Questionnaire.

(2) Form(s) submitted: T-64.

(3) Type of request: New.

(4) Frequency of use: On occasion.

(5) Respondents: Railroad retirement annuitants living outside the United States.

(6) Annual responses: 7,800.

(7) Annual reporting hours: 650.

(8) Collection description: The benefits payable to an annuitant under the Railroad Retirement Act living outside the United States may be subject to withholding under Pub. L. 98-21 and 98-76. The form obtains the information needed to determine the amount to be withheld, if any.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 83-34607 Filed 12-29-83; 8:45 am]

BILLING CODE 7905-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0327]

Advent Atlantic Capital Co. LP; Issuance of Small Business Investment Company License

On August 30, 1983, a Notice was published in the **Federal Register** (48 FR 39328) stating that an application had been filed by Advent Atlantic Capital Co. LP. 45 Milk Street, Boston, Massachusetts 02109 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1983)] for a license as a small business investment company (SBIC).

Interested parties were given until the close of business September 14, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued license No. 01/01-0327 to Advent Atlantic Capital Co. LP to operate as a SBIC.

Dated: December 13, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-34719 Filed 12-29-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5455]

Triad Capital Corporation of New York; Issuance of a Small Business Investment Company License

On November 2, 1982, a notice was published in the **Federal Register** (47 FR 49778) stating that an application has been filed by Triad Capital Corporation of New York, 7 Hugh Grant Circle, Bronx, New York 10462, with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1982)] for a license as a small business investment company.

Interested parties were given until the close of business November 17, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-5455 on November 25, 1983 to Triad Capital

Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 13, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-34716 Filed 12-29-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB December 8–December 19, 1983

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

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Dec. 8–Dec. 19, 1983, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

As needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Dec. 8–Dec. 19, 1983:

DOT No: 2270
OMB No: New
By: National Highway Traffic Safety Administration
Title: 49 CFR, New Pneumatic Tires for Motor Vehicles Other Than Passenger Cars (Labeling).
Forms: N/A
Frequency: On occasion
Respondents: Manufacturers of Tires

Need/Use: This standard requires the molds for all new tires for use on motor vehicles other than passenger cars to be labeled with certain information.

DOT No: 2272
OMB No: New
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 574, Tire Identification and Recordkeeping (Label)
Forms: N/A
Frequency: On occasion
Respondents: Motor Vehicle Tire Manufacturers

Need/Use: This regulation requires all tire manufacturers to label their molds with certain identifying information to appear on all motor vehicle tires they manufacture using the molds.

DOT No: 2304
OMB No: New
By: Research and Special Programs Administration
Title: Portable Tanks for Combustible Liquids, Approval by USCG
Forms: N/A
Frequency: On occasion
Respondents: Shippers of Combustible Liquids & Vessel Operators

Need/Use: To ascertain that design, construction, and specifications of portable tanks are such that they are safe for use in carrying combustible liquids on board a vessel.

DOT No: 2305
OMB No: New
By: Research and Special Programs Administration
Title: Approval to Change Marked Service Pressure of Cylinder Containers
Forms: N/A
Frequency: One-time requirement per event
Respondents: Cylinder makers or servicing businesses for gasses or liquids

Need/Use: The Materials Transportation Bureau uses the information to verify that the proposed change in the service pressure within a gas or liquid transporting cylinder is safe and is not so great that the cylinder could explode when in a charged condition.

DOT No: 2306
OMB No: New
By: Research & Special Programs Administration
Title: Approval of Tank Cars Used for Hydrocyanic Acid Service
Forms: None
Frequency: One-time requirement per event
Respondents: Shippers and/or owners of tank cars used in hydrocyanic acid service.

Need/Use: To verify that tank cars used in hydrocyanic service are in such a condition that the public safety will

not be endangered when this material is in transportation channels.

DOT No: 2307
OMB No: New
By: Research & Special Programs Administration
Title: Request for Classification of Smokeless Powder, Not Exceeding 100 pounds net, as a Flammable Solid.
Forms: None
Frequency: One-time
Respondents: Shippers of smokeless powder

Need/Use: To determine safety of shipments of smokeless powder, not exceeding 100 pounds net, classed as a flammable solid. If found safe shippers may then use the less dangerous classification "Flammable Solid" rather than "Class B Explosive."

DOT No: 2308
OMB No: New
By: Research & Special Programs Administration
Title: Application for Approval for Mixing Carload or Truckload Shipments of Corrosive Liquids & Flammable Solids or Oxidizing Materials, etc.
Forms: None
Frequency: On occasion
Respondents: Rail and Motor Carrier Operators

Need/Use: Shippers or transporters request to allow shipment of corrosive liquids and flammable solids or oxidizing materials in the same vehicle or rail car even though there is a general prohibition against so doing in the Federal regulations. The Materials Transportation Bureau uses the information to make a determination that the planned co-shipment is safe.

DOT No: 2309
OMB No: New
By: Research & Special Programs Administration
Title: Rebuilt Cylinder Requirements
Forms: None
Frequency: One-time report; 15 years recordkeeping
Respondents: Rebuilders of Cylinders

Need/Use: To determine if those applying for authorization to rebuild cylinders are qualified and knowledgeable of the cylinder specifications and other requirements of the Department's Hazardous Materials Regulations applicable to cylinders.

DOT No: 2310
OMB No: New
By: Research & Special Programs Administration
Title: Refrigeration Stabilization Approval
Forms: None
Frequency: One time for each material & refrigeration system.
Respondents: Shippers

Need/Use: To permit materials liable to decompose and/or ignite at other than normal temperatures to be transported under controlled conditions. Normal temperatures have been determined to be between −20 degrees and +130 degrees Farenheit.

DOT No: 2311
OMB No: New
By: Research & Special Programs Administration
Title: Record Retention Requirement for Water Carriers
Forms: None
Frequency: Record retention for 1 year
Respondents: Water Carriers of Hazardous Materials

Need/Use: USCG uses these records, when necessary, in the investigation of incidents involving the transportation of packaged hazardous materials by water.

DOT No: 2312
OMB No: New
By: National Highway Traffic Safety Administration
Title: 49 CFR 571.205, Glazing Material (Labeling)
Forms: None
Frequency: On occasion
Respondents: Manufacturers of glazing materials

Need/Use: For assurance that safety requirements are met, each piece of automotive glazing (windshield, side windows, etc.) requires a lable certifying its safety construction and identifying the kind of glazing, the manufacturer and the model number.

DOT No: 2313
OMB No: 2130–0010 (Track Inspector and Record of Track Inspections combined)
By: Federal Railroad Administration
Title: Designation of Qualified Persons (Track) and Records of Results of Track Inspection.
Forms: None
Frequency: Recordkeeping
Respondents: Railroads

Need/Use: FRA needs this information to assure compliance with safety standards that require inspections to determine track conditions.

DOT No: 2314
OMB No: 2115–0132
By: U.S. Coast Guard
Title: Servicing Records for Life rafts
Forms: None
Frequency: Recordkeeping retention period 5 years
Respondents: Inflatable life raft servicing facilities

Need/Use: Title 46 CFR requires each inspected vessel, and mobile offshore drilling unit to carry 2 inflatable life rafts. These rafts are required to be serviced annually at an approved servicing facility. The servicing facility is required to maintain a complete record of each life raft it services. The recordkeeping requirement is needed to determine (1) that the life raft has been serviced and (2) that the life raft has met the applicable requirements and can be relied upon for safe escape of personnel from a vessel of drilling unit in case of an emergency. The information is used by the Coast Guard inspection personnel who issues a servicing certificate which is valid for 5 years.

DOT No: 2315
OMB No: 2115–0141
By: U.S. Coast Guard
Title: Retention of Records Related to Equipment Type Approvals
Forms: None
Frequency: On occasion
Respondents: Safety Equipment Manufacturers

Need/Use: This recordkeeping requirement is needed to show that the Coast Guard has approved safety equipment for the applicable period. These records are retained by the manufacturer of the equipment to identify the specific equipment approval and to allow further production of identical equipment. The retention period is 5 years which is the expiration period for the Certificate of Approval. 46 CFR is the regulatory authority for the information collection.

DOT No: 2316
OMB No: 2115–0140
By: U.S. Coast Guard
Title: Certificate of Completion of First Aid and CPR Training Courses.
Forms: None
Frequency: On Occasion
Respondents: Applicants for original issue licenses

Need/Use: Applicants for a license have to submit certification attesting to their qualifications prior to examination. This certification is used by the Coast Guard in conjunction with the officer license examination, to assure that applicants possess a minimum level of qualifications in first aid and cardiopulmonary resuscitation.

OMB No.: 2317
OMB No.: 2137–0037
By: Research & Special Programs Administration
Title: Symbol ID Registration Requirements (Drum ID Registration Requirements)
Forms: None
Frequency: One-time
Respondents: Manufacturers of Containers for Hazardous Materials

Need/Use: Materials Transportation Bureau uses this requirement to identify manufacturers of containers. Container manufacturers use the symbol to avoid embossing containers with their full name which could weaken the container or in cases in which there is not enough room on the container for the full name.

DOT No.: 2318
OMB No.: New
By: Research & Special Programs Administration
Title: USCG Authorization to Transport Class A Explosives in a Rail or Highway Vehicle by Vessel.
Forms: None
Frequency: One time per each shipper
Respondents: Shippers of Explosives

Need/Use: To ascertain that Class A explosives are so packaged, blocked and braced in rail and highway vehicles and freight containers that they are in a condition to allow safe transportation by vessel.

DOT No: 2319
OMB No: 2120-0500
By: Federal Aviation Administration
Title: Supplemental Qualification Statement Aviation Safety Inspection. GS-1825-0
Forms: FAA Form 3330-47
Frequency: One time per applicant
Respondents: Individuals

Need/Use: This information, in addition to the SF-171, is needed to evaluate qualifications of applicants for Aviation Safety Inspector positions established by the Federal Aviation Act of 1958. It is evaluated in order to rank applicants on the registers of eligibles maintained by the FAA.

DOT No.: 2320
OMB No.: New
By: Federal Aviation Administration
Title: SFAR-27 Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes
Forms: None
Frequency: As required
Respondents: Manufacturers of gas turbine engines for aircraft

Need/Use: Date of manufacture is to be added to stainless steel I.D. plate on each new jet engine in order to permit an inspector to determine if the engine is required to meet U.S. EPA requirements and if the engine may be installed and operated in the U.S. Manufacturers would be required to add 4 numbers and 6 letters to the previous data on the plate.

DOT No.: 2321
OMB No.: New
By: Federal Aviation Administration
Title: Direct User Access Terminals (DUAT) Demonstration and Test
Forms: None
Frequency: One time
Respondents: Pilots

Need/Use: The Program Manager needs to collect information from the eventual users of the system—the flying public, to gauge the degree of user acceptance and determine the suitability of the system for operational use. The results of collecting this data will provide information that is crucial to the ultimate design and implementation of the system.

DOT No.: 2322
OMB No.: New
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 567, Motor Vehicle Certification Regulations
Forms: None
Frequency: On occasion
Respondents: Motor Vehicle Manufacturers

Need/Use: This regulation establishes form and content requirements for labels certifying compliance with Federal Motor Vehicles Safety and bumper standard. Vehicle Manufacturers are required by statute to affix these labels to their vehicles.

Issued in Washington, D.C.

Jon H. Seymour,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 83-34704 Filed 12-29-83; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series—No. 37-83]

Notes of Series AC-1985; Interest Rates

December 22, 1983.

The Secretary announced on December 21, 1983, that the interest rate on the notes designated Series AC-1985, described in Department Circular—Public Debt Series—No. 37-83 dated December 15, 1983, will be 10⅞ percent. Interest on the notes will be payable at the rate of 10⅞ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-34594 Filed 12-29-83; 8:45 am]

BILLING CODE 4810-40-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 498]

Executive Level Reorganization

Pursuant to Treasury Department Orders 101-5 and 221, the headquarters and regional management structures of the Bureau of Alcohol, Tobacco and Firearms are reorganized as follows:

1. Headquarters Reorganization.

(a) A second Deputy Director position is created. The Deputy Directors assist the Director in all aspects of the management of ATF. Each Deputy Director also serves as an Associate Director under a dual appointment.

(b) The Office of Regulatory Enforcement is retitled the Office of Compliance Operations, headed by an Associate Director. The Associate Director also served as a Deputy Director under a dual appointment.

(c) The Office of Criminal Enforcement is retitled the Office of Law Enforcement, headed by an Associate Director. The Associate Director also serves as a Deputy Director under a dual appointment.

(d) The Office of the Comptroller and the positions of Comptroller and Deputy Comptroller and Deputy Comptroller are created. The Office of the Comptroller has responsibility for all support activities, including Administration and Laboratory Services functions.

(e) The position of Assistant Director (Administration) is abolished.

(f) The Office of Technical and Scientific Services is retitled the Office of Laboratory Services, headed by a Director.

(g) The Office of Planning and Evaluation and the position of Assistant Director (Planning and Evaluation) are eliminated.

2. Regional Reorganization. The positions of Regional Director of Investigations for Criminal Enforcement are abolished.

3. Effective Dates. The headquarters reorganization specified above shall be effective January 2, 1984. The regional reorganization specified above shall be effective December 31, 1983.

Signed: December 20, 1983.

Stephen E. Higgins,

Director.

Approved: December 27, 1983.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 83-34729 Filed 12-29-83; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 252
Friday, December 30, 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

AFRICAN DEVELOPMENT FOUNDATION

TIME AND DATE: 3:00 p.m., January 6, 1984.

PLACE: Department of State, 21st and C Streets, NW., Room 5951, Washington, D.C.

SUBJECT: To discuss and decide upon certain personnel rules and practices of the Foundation.

STATUS: This will be a closed meeting.

PERSON TO CONTACT: Douglas Robbins, ADF Liasion Office, (703) 235–1882.

DATED: December 23, 1983.

Douglas Robertson,

Acting General Counsel of the African Development Foundation.

[S-1804-83 Filed 12-28-83; 12:47 pm]

BILLING CODE 6116-01-M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, December 15, 1983, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

This meeting was set by Commission vote on December 13 for December 15 pursuant to 11 CFR 3.5(d)(1) since Commission business required an immediate meeting and no earlier announcement of the change was possible. The following matter was discussed and acted upon by the Commission:

FEC V. NCPAC, et al., and Democratic Party v. NCPAC, et al.

* * * * *

DATE AND TIME: Wednesday, January 4, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, January 5, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential primary matching funds
Draft Advisory Opinion No. 1983–40 The Honorable Robert Dole
Draft Advisory Opinion No. 1983–42 Mark Steven Soroka on behalf of Allied Bldg. Inspectors, Local 211—I.U.O.E. PAC
Draft Advisory Opinion No. 1983–44 Brad Smith for CASS Communications, Inc.
Request for Reagan for President Committee for stay of Commission's final repayment determination pending appeal
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1807-83 Filed 12-28-83; 1:45 pm]

BILLING CODE 6715-01-M

3

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Monday, January 9, 1984.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of December, 1983.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

DATE OF NOTICE: December 23, 1983.

[S-1806-83 Filed 12-28-83; 12:49 pm]

BILLING CODE 7550-01-M

4

POSTAL RATE COMMISSION

TIME AND DATE: Periodic meetings scheduled on short notice during business days in the period January 17–27, 1984.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of matters in Docket No. R83–1 (Closed pursuant to 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254–5614. Charles L. Clapp, *Secretary.*

[S-1805-83 Filed 12-28-83; 12:48 pm]

BILLING CODE 7715-01-M

5

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1323]

TIME AND DATE: 10:15 a.m. (EST), Wednesday, January 4, 1984.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda items

Approval of minutes of meeting held on December 15, 1983.

Discussion Item

1. Hazardous waste management project.

New Business Items

A—Budget and Financing Items
A1. Adoption of supplemental resolution authorizing 1984 Series A power bonds.
A2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1984 Series A power bonds.
B—Purchase Awards
B1. Invitation 33–834000—Hydraulic turbine runners for Pickwick Landing Hydro Plant.
B2. Amendment to contracts 582–84–T1 and 71P65–99–1 with Westinghouse Electric Corporation for nuclear fuel supply assemblies for Sequoyah and Watts Bar nuclear plants.

B3. Negotiation 33-942505—Replacement boiler components for Paradise Fossil Plant.

B4. Requisition 38-834896—Boiler equipment for Atmospheric Fluidized Bed Combustion Demonstration Plant at Shawnee Steam Plant—Authority to negotiate procurement by negotiation pursuant to Federal Property and Administrative Services Act.

*B5. Sales Inquiry V2-415728—Sale of Diesel Engine Generator Packages to Trans-Global Trading Corporation.

C—Power Items

C1. Amendatory agreement between TVA and Carolina Power & Light Company (CP&L) providing for more flexibility in short-term power transactions and for the updating of settlement provisions in certain existing service schedules, under the CP&L interchange agreement.

*Item approved by individual Board members. This would give formal ratification to the Board's action.

D—Personnel Items

D1. Supplement to personal services contract with Bartlett Nuclear Inc., Plymouth, Massachusetts, to provide services of qualified health physics technicians during the refueling outages at TVA nuclear plants, requested by the Office of Power.

E—Real Property Transportations

E1. Proposed abandonment of certain easement rights affecting approximately 0.08 acre of Watts Bar Reservoir land located in Roane County, Tennessee—Tract No. XWBR-254.

E2. Grant of permanent easement to State of Alabama for the construction, operation, and maintenance of highway improvements affecting 0.05 acre of Muscle Shoals Reservation land in Colbert County, Alabama—Tract No. XT2NPT-13E.

F—Unclassified

F1. Supplement to Contract TV-61517A between TVA and Middle Tennessee Industrial Development Association, Inc., covering arrangements for cooperation in a project designed to mitigate the adverse economic impacts associated with the deferral of the Hartsville Nuclear Plant Construction Project.

F2. Supplement to Agreement No. TV-61865A with Corps of Engineers, Memphis District, Department of the Army, covering arrangements for TVA to provide assistance by performing laboratory analyses.

DATED: December 28, 1983.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

[S-1808-83 Filed 12-28-83; 3:23 pm]

BILLING CODE 8120-01-M

federal register

Friday
December 30, 1983

Part II

Department of Labor

**Employment Standards Administration
Wage and Hour Division**

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination

Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:	
AR83-4038	May 13, 1983.
AR83-4039	May 13, 1983.
AR83-4049	July 15, 1983.
Illinois:	
IL82-2049	Oct. 15 ,1982.
IL82-2051	July 1, 1983.
IL82-2050	July 1, 1983.
IL82-2062	July 29, 1983.
IL82-2036	April 15, 1983.
IL82-2054	July 29, 1983.
IL82-2065	Aug. 12, 1983.
IL82-2052	July 1, 1983.
IL82-2053	Aug. 5, 1983.
Ohio: OH83-5122	Nov. 25, 1983.
Oklahoma:	
OK83-4068	Sept. 16, 1983.
OK83-4067	Sept. 16, 1983.
Tennessee: TN83-1086	Nov. 11, 1983.
Virginia: VA81-3015	Mar. 6, 1981.
West Virginia: WV83-3022	Nov. 18, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Hawaii	HI83-5104 (HI83-5129)	Mar. 18, 1983.
Tennessee	TN83-2071 (TN82-1090)	Jan. 7, 1983.

Signed at Washington, D.C. this 23rd day of December 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS

DECISION #AR83-4038-MOD#5 (48 FR 21775-May 13,1983) Garland, Clark & Hot Spring Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Line Construction:		
Lineman	$13.17	3-3/4%+1.80
Cable Splicers	13.29	53-3/4%+1.80
Groundman	64%JR	3-3/4%+1.80
Truck Drivers (with winch)	80%JR	3-3/4%+1.80
Truck Drivers (flatbed)	64%JR	3-3/4%+1.80
DECISION #AR83-4039-MOD#5 (48 FR 21774-May 13,1983) Union and Ouachita Counties, Arkansas		
CHANGE:		
Electricians:		
Electrical contracts $20,000 or less:		
Electricians	14.91	3-½% + .80
Cable Splicers	15.21	3-½% + .80
Electrical contracts over $20,000:		
Electricians	15.70	3-½% + .80
Cable Splicers	16.00	3-½% + .80
DECISION #AR83-4049-MOD#7 (48 FR 42350-July 15,1983) Sebastian,Crawford, and Washington Counties, Arkansas		
OMIT:		
Sebastian and Crawford Counties		
Elevator Constructors	13.19	2.69+a
Elevator Constructors Helpers	70%JR	2.69+a
Elevator Constructors Probationary Helpers	50%JR	2.69+a
CHANGE:		
Line Construction:		
Lineman - heavy Equipment Operator	14.54	9-3/4% +.80
Cable Splicers	14.79	9-3/4% +.80
Powderman	90%JR	9-3/4% +.80
Truck Driver	75%JR	9-3/4% +.80
Groundman	65%JR	9-3/4% +.80

MODIFICATIONS

DECISION NO. 1183-2049 - Mod. #3 (47 FR 46221 - Oct. 15, 1982) Peoria and Tazewell Counties, Illinois	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	$18.00	$3.03
Glaziers	16.34	2.00+3% +a
DECISION NO. 1183-2051 - Mod.#3 (48 FR 30574 - July 1, 1983) DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois		
CHANGE:		
Electricians:		
Grundy & Will Cos:		
Commercial Building:		
Electricians	18.23	2.45+3.6%
Cable Splicers	14.63	2.45+3.6%
Plasterers:		
Lake Co.	15.12	4.40
Roofers:		
Grundy Co.	14.65	2.71
Remaining Counties	16.50	2.85
Sheet Metal Workers:		
DuPage Co.	17.47	2.63
Grundy & Will Cos.	17.76	2.69
Kane, Kendall & McHenry Cos.	17.46	2.64
Lake Co:		
Commercial Building	16.30	4.14
Residential Aluminum Gutter	8.00	4.24
Power Equipment Operators: (Building & Residential)		
Group 1	19.40	5.25
Group 2	17.10	5.25
Group 3	15.45	5.25
Group 4	13.70	5.25
DECISION NO. 1183-2050 - Mod.#2 (48 FR 30571 - July 1, 1983) Cook County, Illinois		
CHANGE:		
Sheet Metal Workers:		
Commercial Building	16.50	4.24
Residential Aluminum Gutter	8.00	4.24
Power Equipment Operators: (Building & Residential)		
Group 1	18.40	5.25
Group 2	17.10	5.25
Group 3	15.45	5.25
Group 4	13.70	5.25
DECISION NO. 1183-2061 - Mod.#1 (48 FR 34611 - July 29, 1983) Winnebago County, Illinois		
CHANGE:		
Electricians	10.65	3%+1.65

DECISION NO. 1183-2036 - Mod#2 (48 FR 16404 - April 15, 1983) Adams, Brown, Cass Champaign, Christian, Clark, Coles, Cumberland, Dewitt, Douglas, Edgar Logan, Macon, Mason, Menard, Morgan, Moultrie, Platt, Pike, Sangamon, Schuyler, Scott, Shelby and Vermilion Counties, Illinois	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters: Piledrivermen:		
Area 1	$15.69	$2.50
Area 2	15.18	3.01
Area 4	15.58	2.81
Area 7	15.37	2.82
Ironworkers:		
Area 1	16.08	2.48
Line Construction:		
Area 2:		
Linemen	17.75	13¼%+1.00
Groundmen Equipment Opers Class 1	15.14	13¼%+1.00
Groundmen Equipment Opers Class 2	13.53	13¼%+1.00
Groundmen	11.26	13¼%+1.00
Power Equipment Operators:		
Area 2:		
Group 1	17.45	2.60
Group 2	17.35	2.60
Group 3	17.15	2.60
Group 4	9.30	2.60
DECISION NO. 1183-2054 - Mod #1 (48 FR 34601 - July 29, 1983) Alexander, Clay, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Perry, Pope, Pulaski, Randolph, Richland, Saline, Union, Wabash, Wayne, White & Williamson Counties, Illinois		
CHANGE:		
Ironworkers	16.08	2.48
Line Construction:		
Area 2:		
Linemen	17.75	1.00+13¼%
Groundman Equipment Oper. Class 1	15.14	1.00+13¼%
Groundman Equipment Oper. Class 2	13.55	1.00+13¼%
Groundman	11.26	1.00+13¼%
Power Equip. Oper. (area 1):		
Group 1	17.30	2.085
Group 2	15.40	2.085
Group 3	15.10	2.085

(Continued, next page)

MODIFICATIONS

DECISION NO IL83-2054 (Cont'd)	Basic Hourly Rates	Fringe Benefits
Group 4	$14.45	$2.085
Group 5	13.85	2.085
Group 6	17.40	2.085
Group 7	14.40	2.085
ADD:		
Group Description:		
Power Equipment Operators:		
Area 1:		
(River and Levee work on Mississippi & Ohio Rivers)		
Group 6 - Crane, shovel, dragline, scraper, dredge, derrick, piledriver, push boat, mechanic, engineman on dredge, leverman on dredge, APSCO or equal spreading machine, backhoe, backfiller, boom or winch cat, bituminous mixplanme machine, blacksmith, bituminous surfacing machine, bulldozer, truck crane, concrete finishing machine, or spreader machine, concrete breaker, concrete or pumpcrete machines, Dinky or standard locomotives, well drill, elevating grader, forklift, flexplane, grade-all, Hi-lift, power handblade, tugger type hoist, hoist (two or more drums), guyderrit , Hyster, motor patrol, mixers (21 cu ft or over), push cats, pull scrapers, pumps (two well points), equipment greaser, F&H Pulverizer or equal to pugmill, pugmill, rubber tired farm type tractor with bulldozer/blade/auger/or Hi-lift over 1/2 cu yd, skinner scoops, seaman tiller, Jersey spreader, tract-air used with drill or Hi-lift, trenching or ditching machine, wood chipper with tractor, self-propelled roller with blade, concrete pump, small equipment operators.		
Group 7 - Oiler or fireman on crane, dragline, shovel, dredge, truck crane, piledriver, grade-all, Dinky or standard locomotive, guyderrick, trenching machine or ditching machine (80 hp or over), all-terrain (cherry picker) cranes with 20-ton lifting capacity or over, deck oiler on Ohio River.		

DECISION NO. IL83-2046 - Mod #1 (48 FR 36780 - Aug 12, 1983) Bond, Calhoun, Clinton, Greene, Jersey Macoupin, Madison, Monroe, Montgomery, St. Clair, & Washington Counties, Illinois	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers:		
Area 2	$16.08	$2.46
Line Construction:		
Area 1:		
Linemen & Digging Operator	17.75	1.00+13%
Groundmen Equipment Oper		
Class 1	15.14	1.00+13%
Class 2	13.55	1.00+13%
Groundman	13.24	1.00+13%
Area 2:		
Linemen	20.36	11%
Groundman Equipment Operator	17.72	11%
Groundman Truck Drivers	14.46	11%
Groundman	13.24	11%

MODIFICATIONS

DECISION NO. IL83-2052 - Mod #4 (48 FR 30576 - July 1, 1983) Adams, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Clinton, DeKalb, Fulton, Greene, Hancock, Henderson, Henry, Jersey, JoDaviess, Knox, LaSalle, Lee, Livingston, Logan, McDonough, McLean, Macoupin, Marshall, Mason, Menard, Mercer, Monroe, Montgomery, Morgan, Ogle, Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Stark, Stephenson, Warren, Washington, Whiteside, Winnebago, and Woodford Counties, Illinois	Basic Hourly Rates	Fringe Benefits
ADD:		
AREA DESCRIPTIONS:		
Pipefitters; Plumbers; Steamfitters:		
Area 4: Marshall (North of Rt #17)		
Area 10: Marshall (South of Rt #17)		
Roofers:		
Area 1: Hancock		
OMIT:		
AREA DESCRIPTIONS:		
Plumbers:		
Area 12: Marshall		
Roofers:		
Area 8: Hancock		
CHANGE:		
Cement Masons; Plasterers:		
Area 7:		
Cement Masons	$16.35	.01
Plasterers	16.45	.01
Electricians:		
Area 5:	18.23	2.45+ 3.4%
Pipefitters; Plumbers; and Steamfitters:		
Area 13	15.85	4.48
Area 14	18.95	2.68
Sheet Metal Workers:		
Area 3	16.63	3.23
Power Equipment Operators:		
Area 3:		
Class 1	18.40	5.25
Class 2	17.10	5.25
Class 3	15.45	5.25
Class 4	13.70	5.25

DECISION NO. IL83-2053 - Mod#5 (48 FR 35826 - August 5, 1983) Alexander, Champaign, Christian, Clark, Clay, Coles, Crawford, Cumberland, Dewitt, Douglas, Edgar, Edward, Effingham, Fayette, Ford, Franklin, Gallatin, Hamilton, Hardin, Iroquois, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Moultrie, Perry, Piatt, Pope, Pulaski, Richland, Saline, Shelby, Union, Vermilion, Wabash, Wayne, White, and Williamson Counties, Illinois	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement Masons; Plasterers:		
Area 14:		
Cement Masons	$16.35	$1.00
Plasterers	16.35	1.00
Area 15:		
Cement Masons	16.35	.01
Plasterers	16.45	.01
Painters:		
Area 10:		
Brush	10.25	
Roller (0 to 10")	10.50	
Drywall, Steel	10.75	
Roller (over 10")	11.25	
Spray	11.75	
Plumber, Pipe & Steam Fitters		
Area 1	16.95	2.68
Area 9	18.85	2.78
Sheet Metal Workers:		
Area 5	17.76	2.89
Power Equipment Operators:		
Area 1:		
Group 1	17.30	2.085
Group 2	15.40	2.085
Group 3	15.10	2.085
Group 4	14.45	2.085
Group 5	13.85	2.085
Group 6	17.40	2.085
Group 7	14.40	2.085
Area 2:		
Group 1	17.45	2.60
Group 2	17.35	2.60
Group 3	17.15	2.60
Group 4	9.50	2.60
ADD:		
Group Descriptions:		
Power Equipment Operators (area 1): River and Levee work on Mississippi and Ohio Rivers		

(Continued on next page)

MODIFICATIONS

DECISION NO. IL83-2053 (Cont'd)	Basic Hourly Rates	Fringe Benefits
Group 6 - Crane, shovel, dragline, scraper, dredge, derrick pile-driver, push boat, mechanic, engine-man on dredge, leverman on dredge, APSCO or equal spreading machine, backhoe, backfiller, boom or winch cat, bituminous mixplane machine, blacksmith, bituminous surfacing machine, bulldozer, truckcrane, concrete finishing machine or spreader machine, concrete breaker, concrete or pumpcrete machines, dinky or standard locomotives, well drill, elevating grader, forklift, flexplane, gradeall, Hi-lift, power handblade, tugger type hoist, hoist (Two drums or over), guyderrick, Hyster, motor patrol, mixers (21 cu ft or over), push cat, pull scrapers, pumps - two well points, equipment greaser, P&H Pulverizer or equal to pugmill pugmill, rubber-tired farm type tractor with bulldoser/blade/auger/ or Hi-lift over 1/2 cu yd, skimmer scoops, seaman tiller, Jersey spreader tract-air used with drill or Hi-lift, trenching or ditching machine, wood chipper with tractor, self-propelled roller with blade, concrete pump, small equipment operators.		
Group 7 - Oiler or fireman ont crane, dragline, shovel, dredge, truck crane, pile-driver, gradeall, Dinky or standard locomotive, guy derrick, trenching machine or ditching machine (80 hp or over), all-terrain (cherry picker) cranes with 20-ton lifting capacity or over, deck oiler on Ohio River.		

DECISION NUMBER OH83-5122 - MOD. #2 (48 FR 53254 - November 25, 1983) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Add:		
Line Constructions:		
Area 11:		
Traffic Signal Work:		
Lineman; Operator	$17.07	85+3%
Groundmen	13.95	85+3%

MODIFICATIONS

DECISION #OH83-4068 - MOD. # 4 (48 FR 41714-September 16, 1983)	Basic Hourly Rates	Fringe Benefits
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods, and Woodward Counties, Oklahoma		
CHANGE:		
Painters - Area 2		
Brush	$13.60	$2.28
Spray under 30 feet	14.10	2.28
Spray over 30 feet	14.60	2.28
Paperhanging	14.60	2.28
Tapers using machine tools	14.10	2.28

DECISION #OH83-4067 - MOD. # 5 (48 FR 41715-September 16, 1983)	Basic Hourly Rates	Fringe Benefits
Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner & Washington Counties, Oklahoma		
ADD:		
Line Construction (Braden, Pocola, and Spira Townships in Leflore Co.; that portion east of Brent, Prices Chapel, Rocky Mountain and Sallisaw Townships in Sequoyah Co.		
Lineman, Heavy Equipment Operator	$14.54	$1.30 + 3 3/4%
Cable Splicer	14.79	1.30 + 3 3/4%
Powderman	90%JR	1.30 + 3 3/4%
Truck Driver	75%JR	1.30 + 3 3/4
Groundman	65%JR	1.30 + 3 3/4%

DECISION #OH83-4067 continued	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Glaziers: Area 1	$15.72	$ .30

MODIFICATIONS

DECISION NO. TN83-1086 Mod # 1 (48 FR 53269 - November 11, 1983) Anderson, Knox, Monroe & Roane Counties, Tennessee	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$15.64	2.16
PLUMBERS & PIPEFITTERS:		
Knox County	14.05	1.92
Anderson, Monroe & Roane Counties	14.35	1.92

DECISION NO. VA81-3015- MOD. #15 (46 FR 15666-MARCH 6,1981) RADFORD ARMY AMMUNITION PLANT, VIRGINIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
COMMON LABORERS	$7.60	1.10
MASON TENDERS	7.60	1.10
AIR TOOL OPERATORS	7.85	1.10

DECISION #WV83-3022- Mod #4: (48 FR- 52547- November 18,1983) Statewide West Virginia excluding the counties of Berkley, Jefferson & Morgan.		Basic Hourly Rates	Fringe Benefits
Change:			
LABORERS:			
AREA 1			
Groups	1.	$11.26	2.45
	2.	11.76	2.45
	3.	12.16	2.45
AREA 2			
Groups	1.	11.20	2.45
	2.	11.56	2.45
	3.	11.99	2.45
AREA 3			
Groups	1.	10.25	2.45
	2.	10.76	2.45
	3.	11.50	2.45
AREA 4			
Groups	1.	12.06	2.45
	2.	12.46	2.45
	3.	12.71	2.45
AREA 5			
Groups	1.	12.06	2.45
	2.	12.46	2.45
	3.	12.71	2.45

SUPERSEDEAS DECISION

STATE: Hawaii
DECISION NUMBER: HI83-5129
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. HI83-5104 dated March 18, 1983 in 48 FR 11610
DESCRIPTION OF WORK: Building Projects; Residential Projects (consisting of single family homes and apartments up to and including 4 stories); Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.61	6.71
BOILERMAKERS	15.70	4.53
BRICKLAYERS; Caulkers; Cement Block Layers; Cleaners; Pointer; Stonemasons	14.23	5.55
CARPENTERS:		
Carpenters; Hardwood Floor Layers; Patent Scaffold Erectors; Piledrivermen; Pneumatic Nailer; Wood Shinglers	16.40	5.30
Drywall Hangers	16.65	5.24
Lathers	16.40	5.20
Millwrights	16.65	5.30
Power Saw Operator (2 H.P. and over)	16.55	5.30
CEMENT MASONS:		
Cement Masons	14.18	5.55
Troweling Machine Operators	14.33	5.55
DRAPERY INSTALLERS	6.45	b+.90
ELECTRICIANS:		
Electricians	15.50	4.07+ 30.6%
Technicians	15.97	4.07+ 30.6%
Cable Splicers	17.05	4.07+ 30.6%
ELEVATOR CONSTRUCTORS:		
Mechanics	19.26	a+3.00
Helpers	13.48	a+3.00
Probationary Helper	9.63	
FENCE ERECTORS:		
Chain Link	5.39	.65
GLAZIERS	14.77	5.83
IRONWORKERS:		
Bridge; Ornamental; Reinforcing; Structural	15.00	6.23
LINE CONSTRUCTION:		
Electricians; Linemen	15.50	4.07+ 30.6%
Technicians	15.97	4.07+ 30.6%

LINE CONSTRUCTION (Cont'd)	Basic Hourly Rates	Fringe Benefits
Heavy Equipment Operator	13.95	4.07+ 30.6%
Groundmen	11.63	4.07+ 30.6%
Cable Splicers	17.05	4.07+ 30.6%
MARBLE SETTERS	14.23	5.55
PAINTERS:		
Brush	15.05	5.94
Tapers	15.30	5.94
Spray; Sandblaster	15.55	5.94
PLASTERERS	14.72	5.56
PLUMBERS; Pipefitters; & Steamfitters	16.00	7.07
ROOFERS	16.10	5.03
SHEET METAL WORKERS	15.50	7.77
SOFT FLOOR LAYERS	15.95	5.55
SPRINKLER FITTERS	17.37	3.23
TERRAZZO WORKERS	14.23	5.55
TERRAZZO BASE GRINDER	12.81	5.39
TERRAZZO FLOOR GRINDER AND FINISHER	11.38	5.39
TILE SETTERS	14.23	5.55
TILE SETTERS' FINISHERS	11.38	5.39
HELICOPTER WORK:		
Pilot of Helicopter	17.72	5.75
Copilot of Helicopter	17.55	5.75
Airborne Hoist Operator for Helicopter	17.41	5.75
Driver (Aqua Lung)	18.86	5.75
ASPHALT PAVING GROUP:		
Asphalt Raker	14.10	c+4.15
Asphalt Spreader Operator	15.38	c+4.15
Roller Operator:		
over 5 tons	15.06	c+4.15
5 tons and under	13.83	c+4.15
Screed Man	14.41	c+4.15
Hand Roller	13.60	c+4.15

DECISION NO. HI83-5129

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Group 1	12.01	4.11
Group 2	12.36	4.11
Group 3	12.56	4.11
Group 4	12.81	4.11
Group 5	12.86	4.11
Group 6	13.06	4.11
LANDSCAPE and IRRIGATION LABORERS:		
Group 1	9.23	2.61
Group 2	8.41	2.61
Group 3	6.50	2.61
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection):		
Group 1	13.55	5.75
Group 2	13.66	5.75
Group 3	13.83	5.75
Group 4	14.10	5.75
Group 5	14.41	5.75
Group 6	15.06	5.75
Group 7	15.38	5.75
Group 8	15.49	5.75
Group 9	15.60	5.75
Group 9-A	15.83	5.75
Group 10	15.89	5.75
Group 10-A	16.04	5.75
Group 11	16.19	5.75
Group 12	16.55	5.75

	Basic Hourly Rates	Fringe Benefits
DREDGING:		
Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derrick:		
Group 1	16.55	5.75
Group 2	16.04	5.75
Group 3	15.49	5.75
Group 4	13.83	5.75
Group 5	13.83	5.75
Group 6	13.83	5.75
Group 7	16.30	5.75
Group 8	15.38	5.75
Group 9	16.00	5.75
Group 10	13.83	5.75
TRUCK DRIVERS:		
Group 1	13.83	5.75
Group 2	14.10	5.75
Group 3	14.41	5.75
Group 4	15.06	5.75
Group 5	15.38	5.75
Group 6	15.49	5.75
RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental		

DECISION NO. HI83-5129

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day After Thanksgiving Day; and Christmas Day

b. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; plus Kamehameha Day. In order to be eligible for a Paid Holiday, employees must work the last working day before the Holiday and the first working day following the Holiday. If the employee did not work either of these two days due to illness or layoff, he shall be entitled to Holiday Pay. In case of illness, the Company may require proof of illness.

c. ASPHALT PAVING GROUP Only: Employee who has completed two to five years' service shall receive a vacation of one week with pay; each additional year an additional one day vacation with pay; ten or more years, a vacation for two weeks each year; for each year of completed service thereafter to and including fifteen or more years of service, a vacation of three weeks each year with pay.

LABORERS

Group 1: All Clean-up work of debris, grounds, buildings; Bridge Laborers; Construction Laborers; Dumpman; General Laborers; Limbers, Brush Loaders and Pilers; Plasterer Laborers

Group 2: Asphalt Shovelers; Cement Dumpers; Choke-setter and Rigger (clearing work); Concrete Chipping; Driller's Tender, Chuck Tender, Outside Nipper; Guinea Chaser (Stakeman); High Pressure Nozzleman-hydraulic Monitor (over 100# pressure) excluding levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Sloper; All pneumatic, gas and electric tools not listed in Group 1.

LABORERS (Cont'd)

Group 3: Asphalt Ironers, Rakers and Hand Rollers; Barko and similar type Tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Concrete and Magnesite Mixer under 1/2 yard; Concrete Grinder; Concrete Pan Work; Concrete Saw (walking or hand type); Cribbers; Cut Granite Curb Setters; Form Raisers; Header Board; Mortar Mixers (block-brick-masonry); Jackhammer Operator Jackson and similar type Compactors; Lagging, Sheeting, Whaling, Bracing, Trench-jacking, Hand-guided Lagging Hammer; Magnesite and Mastic Workers (wet or dry); Mechanical Drillers not covered elsewhere; Pavement Breakers; Pipelayers, Caulkers, Bander; Pipewrappers, Kettlemen, Potmen and men applying asphalt, Lay-Kold, Creosote and similar type materials; Post Hole Diggers (hand held-gas, air and electric); Riprap, Stonepaver and Rockslinger, including placing of sacked concrete (wet or dry); Rotary Scarifier; Roto-tiller; Sandblasters; Tank Cleaners; Tree Climbers; Vibra-screed (Bull Float in connection with Laborers' work); Vibrator; Burning, welding, signaling and rigging in connection with Laborers' work; Concrete Pump Machine; Joy Drill Model TWM-2A, Gardner Denver DH-143 and similar type drills; Track Drillers, Diamond, Core and Wagon Drillers; Davis Trencher T-66 or similar types; Concrete Laborers (wet or dry), including Bucket Tender for concrete; Plasterer Mortar Mixers

Group 4: High Scaler

Group 5: Gunnite Operator

Group 6: Powdermen

LANDSCAPE and IRRIGATION LABORERS

Group 1: Layout and/or installation of all valves, valve boxes, vacuum breakers, low voltage electrical lines, hydraulic or electrical controllers, drinking fountains and other portable water systems, and metallic pipe (copper, brass, galvanized, or similar), and tie-in to main lines including soldering (torch, soldering iron, etc.); Making of pressure test; Operation of hand-held gas, air, or self-powered construction tools and equipment such as Jackhammers, Busters, Mud Guns, Jumping Jacks, Post Hole Diggers, Rototillers, Scarifiers, Jackson and similar type Compactors, Barko and similar type Tampers, Ramsets, etc.; Tree Climbers and Chain Saw Tree Trimmers; Shooting of grade elevations; Checking of all trees, shrubs, and other plantings for proper size, caliber, and condition; Concrete work (wet or dry), including Concrete Bucket Tending, Concrete Shipping, Concrete Grinding and operation of Concrete Vibrator, Concrete Pump Machine, Concrete Saw Cutter (hand held or walking type), and Concrete Mixer, includes setting of rock, stone, or riprap; Choke Setting, Signaling, and Rigging for equipment Operators on job site; Operation of Forklifts, Flat Bed Trucks up to and including 2½ tons, Drillers, Hydro-mulching Machines (Sprayman and Driver), Trenchers (Riding type, Davis T-66 and similar); Operation of Cranes (Bantom, Grove, and similar), Hoptos, Backhoes, Light Loaders, Rollers, and Dozers,(Case, John Deere, and similar), Trucks requiring Hawaii Public Utilities Commission type 7 License, and other self-propelled, sit-down operated machines not listed in Group 2

DECISION NO. HI83-5129

LANDSCAPE and IRRIGATION LABORERS (Cont'd)

Group 2: Grubbing, excavation (pick and shovel), and hand rolling or tamping; Installation of heads, Risers, and PVC or other plastic pipe; Sprigging, handseeding, and planting of trees, shrubs, ground covers, and other planting (including use of electrically-powered mud guns) and the performance of all other work relating to said planting that is not specifically listed in Group 1 above

Group 3: Landscape and Irrigation Maintenance work performed during the construction phase of work (Preparation/Installation/Planting), also includes the re-planting of trees, shrubs, ground covers, and other plantings that did not "take" or which are damaged (if re-planting requires two or more persons to perform, Group 2 wages shall be paid); & all work on single family residences

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Partsman (heavy duty repair shop parts room when needed); Repairman Tender

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material Loader and/or Conveyor Operator (handling building material); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Oiler; Fireman; Brakeman; Deckhand; Tar Pot Fireman; Box Operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphalt concrete paving); Self-propelled, automatically applied concrete Curing Machine (on streets, highways, airports and canals); Tugger Hoist, single drum

Group 4: Boom Truck or Dual Purpose "A" Frame Truck; Dinky Operator; Fork Lift or Lumber Stacker (construction job site); Material Hoist (1 drum); Straddle Truck; Ross Carrier and similar (job site)

Group 5: Agri-Cat (mini-cat); Concrete Mixer (up to 2 yards); Concrete Pumps or Pumpcrete Guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding Machine (gasoline diesel)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 6: Combination Loader and Backhoe including Hopto (up to and including 1/2 yard); Concrete Batch Plants (wet or dry); Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports, and canals); Drilling Machinery not to apply to Waterliners, Wagon Drills or Jackhammers); Highline Cableway Signalman; Loader (up to and including 2½ cu. yds.); Lull High Lift; Maginnis Internal Full Slab Vibrator (on airports, highways, canals, and warehouses); Mechanical Finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Pavement Breakers; Portable Crushers; Power Jumbo Operator (setting slip forms, etc. in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Slip Form Pumps (power driven hydraulic, electric, air, gas, etc. lifting device for concrete forms); Small Rubber-tired Tractors; Trenchers (up to and including 6 feet)

Group 7: Crusher Plant; Dual Drum Mixer; Gradesetter (mechanical or otherwise); Hoist (2 drums); Loader (over 2½ cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader Machine, Asphalt (Barber Greene and similar); Mine or Shaft Hoist; Mixermobile (over 5 tons); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker with compressor combination (operates 1 or 2); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Pipe Bending Machine (pipe lines only); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom D-6 or similar); Trencher (over 6 ft.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20, 21 or similar)

Group 8: Boring Machine; Cast-in-place Pipe Laying Machine; Concrete Batch Plant (multiple units); Combination Loader and Hydraulic Backhoe (over 1/2 yd. up to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing Machine Operator (airports and highways); Hydraulic Backhoe (over 1/2 yd. to and including 3/4 yard); Kolman Loader; Mechanic Trench Shield; Mucking Machine; No-joint Pipe Laying Machine; Portable Crushing and Screening Plants; Saurman type Dragline (under 5 yards); Self-propelled Boom type Lifting Device; Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer; Tunnel Badger; Tri-batch Paver

Group 9: Boom type Backfilling Machine; Combination Mixer and Compressor (gunite); Do-more Loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber-tired Earthmoving Equipment (up to 12 cu. yds.); Wheel Trencher (over 6")

Group 9-A: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-propelled Compactor with Dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

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POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 10: Chicago Boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yards up to and including 12 yards); Locomotive (over 100 tons)(single or multiple units); Power Blade Operator; Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds., Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type Dragline (5 yards or over); Soil Stabilizer (P & H equal); Sub-grader (Gurries or other automatic type); Track-laying type earthmoving Machine (single engine with Tandem Scraper); Tractor, Compressor, Drill Combination; Tractor (tandem Scraper); Tractors (D-9 or equivalent)

Group 10A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yd.)

Group 11: Automatic Slip Form Paver (concrete or asphalt); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earthmoving Machine (multiple propulsion power units and two or more scrapers)(up to and including 35 cu. yds. struck MRC); Highline Cableway; Lift Slab Machine; Loader (over 12 yds.); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yd. and up to 7 yds.); Power Blade Operator (16 or over); Prestress Wire Wrapping Machine; Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth Moving Machine (with tandem scraper); Tandem Cats; Tower Cranes, mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel Excavator (up to and including 750 cu. yds. per hour)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion Earth Moving Machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power Shovels and Draglines (7 cu. yds. M.R.C. and over); Rubber-tired Earthmoving Equipment (over 35 cu. yds., Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel Excavator (over 750 cu. yds.)

DREDGING
Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derrick

Group 1: Clamshell or Dipper Operator; Operators (Derricks, Piledrivers and Cranes)

Group 2: Mechanic or Welder; Assistant Engineer; Assistant Engineer (steam or electric)

Group 3: Deckmate; Barge Mate (Seagoing)

Group 4: Fireman

Group 5: Oiler; Deckhand (can operate Anchor Scow under direction of Deck Mate)

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DREDGING (Cont'd)
Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derrick (Cont'd)

Group 6: Bargeman; Leveeman

Group 7: Leverman; Master Boat Operator

Group 8: Winchman (Stern Winch on Dredge)

Group 9: Boat Operator

Group 10: Boat Deckhand

TRUCK DRIVERS

Group 1: Platbed

Group 2: Dump, 8 yards and under; Water Truck (up to and including 2,000 gallons)

Group 3: Water Truck (over 2,000 gallons)

Group 4: Semi-trailer or Semi-dump

Group 5: Slip-in or Pup

Group 6: End Dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (hauling equipment); Trucks (hooked up to trailer hauling equipment)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Tennessee
DECISION NUMBER: TN83-1090
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision Number TN82-2071, dated January 7, 1983 in 48 FR 930
DESCRIPTION OF WORK: Heavy Construction Projects (except Hamilton County), Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
BRICKLAYER	$ 8.84	
CARPENTER or LEAD PERSON	7.97	
CONCRETE FINISHER	7.48	
DRILL OPERATOR (CAISSON)	12.39	
ELECTRICIAN:		
Shelby County only	17.48	3%% + 1.45
Remaining Counties	13.07	
IRONWORKER:		
Reinforcing	8.12	
Structural	8.26	
LABORER:		
Class A	5.75	
Class B	7.18	
MECHANIC:		
Heavy Duty	8.70	
Light Duty	7.77	
PAINTER & SANDBLASTER	$ 8.31	
POWDER PERSON (BLASTER)	7.35	
TRUCK DRIVER:		
2 or 3 Axle	6.89	
4 or 5 Axle (Heavy Duty)	7.05	
POWER EQUIPMENT OPERATOR:		
Class A	8.42	
Class B	7.85	
Class C	7.87	
Class D	6.84	
Class E	6.54	
Class F	6.12	
WELDER - Receives Rate for Craft performing operation to which Welding is incidental.		

CLASSIFICATION DEFINITIONS:

LABORERS:
Class A - Unskilled Laborer
Class B - Skilled Laborers: Air Tool Operator, Asphalt Raker, Chain Saw Operator, Concrete Mixer Operator (Less than 1 yard), Concrete Rubber/Edger, Fence Erector, Form Setter (Steel Road), Guard Rail Erector, Mechanic's Tender (Tire Changer or Oiler), Mortar Mixer, Nozzleman or Gun Operator (Gunite), Pipelayer, Sign Erector.

POWER EQUIPMENT OPERATORS:
Class A - Backhoe/Hydraulic Excavator (3/4 yard & over), Crane, End Loader (3 yards & over), Motor Patrol (Finish), Pile Driver, Dragline.
Class B - Backhoe/Hydraulic Excavator (Less than 3/4 yard), Bull Dozer or Push Dozer, End Loader (Less than 3 yards), Motor Patrol Operator (Rough), Tractor (Crawler/Utility), Scraper, Shovel, Trenching Machine.
Class C - Asphalt Paver, Concrete Finishing Machine, Concrete Paver, Scale, Spreader (Self-Propelled).

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CLASSIFICATION DEFINITIONS (Cont'd):

POWER EQUIPMENT OPERATORS (Cont'd):

Class D - Bobcat, Central Mixing Plant, Concrete Pump, Concrete Saw, Curb Machine (Automatic or Manual), Dozer or Loader Operator (Stockpile), Drill Operator (Piling), Mulcher or Seeder, Rock Drill (Truck Mounted), Roller (Asphalt), Roller (Compaction Self-Propelled), Soil Stabilization Machine, Tractor (Boom & Hoist).
Class E - Bituminous Distributor Machine, Boring Machine (Horizonal), Ditch Paving Machine, Pump, Track Drill.
Class F - Farm Tractor Operator.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)(A).

[FR Doc. 83-34491 Filed 12-29-83; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
December 30, 1983

Part III

Nuclear Regulatory Commission

State of Utah; Staff Assessment of Proposed Agreement Between the NRC and the State of Utah

NUCLEAR REGULATORY COMMISSION

State of Utah; Staff Assessment of Proposed Agreement Between the NRC and the State of Utah

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Proposed Agreement with State of Utah.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission is publishing for public comment the NRC staff assessment of a proposed agreement received from the Governor of the State of Utah for the assumption of certain of the Commission's regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

A staff assessment of the State's proposed program for control over sources of radiation is set forth below as supplementary information to this notice. A copy of the program narrative, including the referenced appendices, appropriate State legislation and Utah regulations, is available for public inspection in the Commission's public document room at 1717 H Street, NW., Washington, D.C. Exemptions from the Commission's regulatory authority, which would implement this proposed agreement, have been published in the **Federal Register** and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATE: Comments must be received on or before January 30, 1984.

ADDRESSES: All interested persons desiring to submit comments and suggestions for consideration by the Commission in connection with the proposed agreement should send them to the Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301–492–9889, or Robert J. Doda, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas, 76011, telephone 817–860–8139.

SUPPLEMENTARY INFORMATION:

Assessment of Proposed Utah Program to Regulate Certain Radioactive Materials Pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

The Commission has received a proposal from the Governor of Utah for the State to enter into an agreement with the NRC whereby the NRC would relinquish and the State would assume certain regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

Section 274e of the Atomic Energy Act of 1954, as amended, requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be published four times in the **Federal Register.**

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended, provides a mechanism whereby the NRC may transfer to the States certain regulator authority over agreement materials [1] when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, Section 274j provides that the Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

B. In a letter dated November 14, 1983, Governor Scott M. Matheson of the State of Utah requested that the Commission enter into an agreement with the State pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, and proposed that the agreement become effective on April 1, 1984. The Governor certified that the State of Utah has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State of Utah desires to assume regulatory responsibility for such materials. The text of the proposed agreement is shown in Appendix A and the narrative portion of the program description is shown in Appendix B.

The specific authority requested is for (1) byproduct material as defined in Section 11e(1) of the Act, (2) source material and (3) special nuclear material in quantities not sufficient to form a critical mass. The State does not wish to assume authority over uranium milling activities nor the commercial disposal of low-level radioactive waste. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in these areas. The nine articles of the proposed agreement cover the following areas:

I. Lists the materials covered by the agreement.
II. Lists the Commission's continued authority and responsibility for certain activities.
III. Allows for future amendment of the agreement.
IV. Allows for certain regulatory changes by the Commission.
V. References the continued authority of the Commission for common defense and security for safeguards purposes.
VI. Pledges the best efforts of the Commission and the State to achieve coordinated and compatible programs.
VII. Recognizes reciprocity of licenses issued by the respective agencies.
VIII. Sets forth criteria for termination or suspension of the agreement.
IX. Specifies the effective date of the agreement.

C. Utah Code Annotated 26–1–27 through 26–1–29 authorizes the State Department of Health to issue licenses to, and perform inspections of, users of radioactive materials under the proposed agreement and otherwise carry out a total radiation control program. Utah Radiation Control Regulations URC–10 through URC–80 adopted November 8, 1982 under authority of 26–1–27 through 26–1–29 Utah Code annotated 1953, as amended, provides standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. Pursuant to URC–12–165, the regulations are not applicable to agreement materials until the effective date of the agreement. Since January 1, 1983, the State has been licensing and inspecting users of naturally occurring and accelerator produced radioactive materials.

D. The environmental radiation issues with which the Department has been involved include: monitoring assessment of the impact of radioactive fallout from nuclear weapons testing at the Nevada Test Site; monitoring uranium mill tailings, particularly at the Vitro uranium mill; and monitoring indoor radon in Salt Lake County.

The Department has also been involved in inspections of x-ray users since 1961 including involvement in the U.S. FDA studies Nationwide Evaluation of X-Ray Trends (NEXT) and Dental Exposure Normalization Technique (DENT).

[1] A. Byproduct materials as defined in 11e(1);
B. Byproduct materials as defined in 11e(2);
C. Source materials; and
D. Special nuclear materials in quantities not sufficient to form a critical mass.

II. NRC Staff Assessment of Proposed Utah Program for Control of Agreement Materials

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.[3]

Objectives

1. *Protection.* A State regulatory program shall be designed to protect the health and safety of the people against radiation hazards.

Based upon the analysis of the State's proposed regulatory program the staff believes the Utah proposed regulatory program for agreement materials is adequately designed to protect the health and safety of the public against radiation hazards.

Radiation Protection Standards

2. *Standards.* The State regulatory program shall adopt a set of standards for protection against radiation which shall apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass.

Statutory authority to formulate and promulgate rules for controlling exposure to sources of radiation is contained in Utah Code Annotated 26–1–5 and 26–1–27. In accordance with that authority, the State has adopted Radiation Control Regulations on November 8, 1982 which include radiation protection standards which would apply to by product, source and special nuclear naterials in quantities not sufficient to form a critical mass upon the effective date of an agreement between the State and the Commission pursuant to Section 274b of the Atomic Energy Act of 1954 as amended.

Reference: Utah Radiation Control Regulations URC–10 through 80.

3. *Uniformity in Radiation Standards.* It is important to strive for uniformity in technical definitions and terminology, particularly as related to such things as units of measurement and radiation dose. There shall be uniformity on maximum permissible doses and level of radiation and concentrations of radioactivity, as fixed by 10 CFR Part 20 of the NRC regulations based on officially approved radiation protection guides.

Technical definitions and terminology contained in the Utah Radiation Control Regulations including those related to units of measurement and radiation doses are uniform with those contained in 10 CFR Part 20, except that the definition of byproduct material conforms to that contained in the Atomic Energy Act prior to enactment by Congress of Pub. L. 95–604, 92 Stat. 3021 et seq., November 8, 1978, the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). In view of the fact that the State does not wish to assume authority over uranium milling activities pursuant to UMTRCA the absence of a definition of byproduct material conforming to that contained in Section 11e(2) of the Atomic Energy Act of 1954, as amended, is not viewed as a significant departure and should not be considered an impediment towards signing of a Section 274b agreement for the materials requested.

Reference: URC–12, 24.

4. *Total Occupational Radiation Exposure.* The regulatory authority shall consider the total occupational radiation exposure of individuals, including that from sources which are not regulated by it.

The Utah regulations cover all sources of radiation within the State's jurisdiction and provide for consideration of the total radiation exposure of individuals from all sources of radiation in the possession of a licensee or registrant.

Reference: URC–24–010.020.

5. *Surveys, Monitoring.* Appropriate surveys and personnel monitoring under the close supervision of technically competent people are essential in achieving radiological protection and shall be made in determining compliance with safety regulations.

The Utah requirements for surveys to evaluate potential exposure from sources of radiation and the personnel monitoring requirements are uniform with those contained in 10 CFR Part 20.

References: URC–12–050 (36) and (62), URC–12–100, URC–24–070, and URC–24–085.

6. *Labels, Signs, Symbols.* It is desirable to achieve uniformity in labels, signs, and symbols, and the posting thereof. However, it is essential that there be uniformity in labels, signs, and symbols affixed to radioactive products which are transferred from person to person.

The prescribed radiation labels, signs, and symbols are uniform with those contained in 10 CFR Parts 20, 30 thru 32 and 34. The Utah posting requirements are also uniform with those of Part 20.

References: URC–22–110, URC–24–090, URC–24–095, and URC–48–020.

7. *Instruction.* Persons working in or frequenting restricted areas shall be instructed with respect to the health risks associated with exposure to radioactive materials and in precautions to minimize exposure. Workers shall have the right to request regulatory authority inspections as per 10 CFR 19, Section 19.16 and to be represented during inspections as specified in Section 19.14 of 10 CFR 19.

The Utah regulations contain requirements for instructions and notices to workers that are uniform with those of 10 CFR Part 19.

Reference: URC–48.

8. *Storage.* Licensed radioactive material in storage shall be secured against unauthorized removal.

The Utah regulations contain a requirement for security of stored radioactive material.

Reference: URC–24–120.

9. *Radioactive Waste Disposal.* (a) Waste disposal by material users. The standards for the disposal of radioactive material into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR Part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR Part 61.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting sections set forth in 10 CFR Part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (Section 151(a)(2), Pub. L. 97–425).

[3] NRC Statement of Policy published in the **Federal Register** January 23, 1981 (46 FR 7540–7546), and revision of Criterion 9 published in the **Federal Register** July 21, 1983 (48 FR 33376).

Utah Radiation Control Regulations contain provisions relating to the disposal of radioactive materials into the air, water and sewer and burial in soil which are uniform with those of 10 CFR Part 20. The current Utah regulations were adopted prior to the publication of 10 CFR Part 61 and the corresponding changes to § 20.311 of Part 20. The Utah regulations, therefore, have no equivalent to § 20.311 or the waste classification system included in Part 61. Governor Matheson's letter of November 14, 1983 indicated that the State's radiation control regulations will be revised through standard rulemaking procedures to conform to the Federal standard regarding the radioactive waste manifest system and the waste classification system.

Since the waste manifest system does not become effective until December 27, 1983 and Agreement States are normally given three years to formally adopt significant changes to NRC regulations, the absence of these provisions in Utah regulations is not viewed as a significant deficiency at this time and should not be considered an impediment to the proposed agreement. The waste manifest system will be implemented by amendments to the site operator licenses. Utah, as well as other Agreement State, licensees will be required to meet the provisions of the site operator's license if they wish to use the site after December 27, 1983.

References: URC–24–130, 135, 140, 145, 150 and 160.

10. *Regulation Governing Shipment of Radioactive Materials.* The State shall to the extent of its jurisdiction promulgate regulations applicable to the shipment of radioactive materials, such regulations to be compatible with those established by the U.S. Department of Transportation and other agencies of the United States whose jurisdiction over interstate shipment of such materials necessarily continues. State regulations regarding transportation of radioactive materials must be compatible with 10 CFR Part 71.

The Utah regulations conform to those contained in NRC regulations prior to the recent (August 5, 1983) publication of a final rule amending Part 71 to achieve compatibility with the transport regulations of the International Atomic Energy Agency (IAEA). The Agreement States have been notified that these changes are considered matters of compatibility. Utah, as well as the other Agreement States, will need to make corresponding changes to their regulations. The lack of these provisions in the current Utah regulations is not viewed as a significant departure at this time since Agreement States are normally given three years to adopt important NRC rule changes, and should not be considered an impediment to the proposed agreement.

References: URC–12-Appendix A and Appendix B; URC–19-400, 500 and 510.

11. *Records and Reports.* The State regulatory program shall require that holders and users of radioactive materials (a) maintain records covering personnel radiation exposures, radiation surveys, and disposals of materials; (b) keep records of the receipt and transfer of the materials; (c) report significant incidents involving the materials, as prescribed by the regulatory authority; (d) make available upon request of a former employee a report of the employee's exposure to radiation; (e) at request of an employee advise the employee of his or her annual radiation exposure; and (f) inform each employee in writing when the employee has received radiation exposure in excess of the prescribed limits.

The Utah regulations require the following records and reports by licensees and registrants:

(a) Records covering personnel radiation exposures, radiation surveys, and disposals of materials.

Reference: URC–24–170.

(b) Records of receipt and transfer of materials.

Reference: URC–12–080.

(c) Reports concerning incidents involving radioactive materials.

Reference: URC–24–180, 190, 200, and 205.

(d) Reports to former employees of their radiation exposure.

Reference: URC–48–040(3).

(e) Reports to employees of their annual radiation exposure.

Reference: URC–48–040(2).

(f) Reports to employees of radiation exposure in excess of prescribed limits.

Reference: URC–48–040(4).

12. *Additional Requirements and Exemptions.* Consistent with the overall criteria here enumerated and to accommodate special cases and circumstances, the State regulatory authority shall be authorized in individual cases to impose additional requirements to protect health and safety, or to grant necessary exemptions which will not jeopardize health and safety.

The Utah Bureau of Radiation Control is authorized to impose upon any licensee or registrant, by rule, regulation, or order such requirements in addition to those established in the regulations as it deems appropriate or necessary to minimize danger to public health and safety or property.

Reference: URC–12–100(2).

The Bureau may also grant such exemptions from the requirements of the regulations as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

Reference: URC–12–125(1).

Prior Evaluation of Uses of Radioactive Materials

13. *Prior Evaluation of Hazards and Uses, Exceptions.* In the present state of knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the use of radioactive materials, the Utah Bureau of Radiation Control will require the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: URC–19–220 and URC–22–020. Utah Program Description Section III.F.

Provision is made for the issuance of general licenses for byproduct, source and special nuclear materials in situations where prior evaluation of the licensee's qualifications, facilities,

equipment and procedures is not required. The regulations grant general licenses under the same circumstances as those under which general licenses are granted in the Commission's regulations.

References: URC-19-220 and URC-21.

14. *Evaluation Criteria.* In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

In evaluating a proposal to use agreement materials, the Utah Bureau of Radiation Control will determine that:

(1) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with the regulations in such a manner as to minimize danger to public health and safety or property;

(2) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property; and

(3) The issuance of the license will not be inimical to the health and safety of the public.

Other special requirements for the issuance of specific licenses are contained in the regulations.

References: URC-22-040, 070, 090, and 110.

15. *Human Use.* The use of radioactive materials and radiation on or in humans shall not be permitted except by properly qualified persons (normally licensed physicians) possessing prescribed minimum experience in the use of radioisotopes or radiation.

The Utah regulations require that the use of radioactive material (including sealed sources) on or in humans shall be by a physician having substantial experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients.

Reference: URC-22-070

Inspection

16. *Purpose, Frequency.* The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

Utah materials licensees will be subject to inspection by the Bureau of Radiation Control. Upon instruction from the Bureau, licensees shall perform or permit the Bureau to perform such reasonable tests and surveys as the Bureau deems appropriate or necessary. The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent, and in most cases more frequent, as inspections of similar licenses by NRC.

References: URC-12-090 and 100; URC-48-050-060-070 and 080; Utah Program Description Section III.G

17. *Inspections Compulsory.* Licensees shall be under obligation by law to provide access to inspectors.

Utah regulations state that licensees shall afford the Bureau at all reasonable times opportunity to inspect sources of radiation and the premises and facilities wherein such sources of radiation are used or stored.

Reference: URC-12-090.

18. *Notification of Results of Inspection.* Licensees are entitled to be advised of the results of inspections and to notice as to whether or not they are in compliance.

Following Bureau inspections, each licensee will be notified by letter of the results of the inspection. The letters indicate if the licensee is in compliance and if not, list the areas of noncompliance.

Reference: Utah Program Description Section III.H.

Enforcement

19. *Enforcement.* Possession and use of radioactive materials should be amenable to enforcement through legal sanctions, and the regulatory authority shall be equipped or assisted by law with the necessary powers for prompt enforcement. This may include, as appropriate, administrative remedies looking toward issuance of orders requiring affirmative action or suspension or revocation of the right to possess and use materials, and the impounding of materials; the obtaining of injunctive relief; and the imposing of civil or criminal penalties.

The Bureau of Radiation Control is equipped with the necessary powers for prompt enforcement of the regulations. Where conditions exist that create a clear presence of a hazard to the public health that requires immediate action to protect human health and safety, the Bureau may issue orders to reduce, discontinue or eliminate such conditions. Such orders may be a written directive to modify, suspend or revoke a license, to cease and desist from a given practice or activity, or to take such other action as may be appropriate. License modification orders will be issued when some change in licensee equipment, procedures, or management controls is necessary. Suspension orders will be used to remove an immediate threat to the public health or when a licensee has not responded adequately to other enforcement action. Revocation orders will be used when a licensee is unable or unwilling to comply with Bureau requirements. Cease and desist orders will be used to stop an unauthorized activity that has continued despite notification by the Bureau that such activity is unauthorized. In addition, the State will request from the legislature authority to impose civil penalties for violation of the Utah Radiation Control Regulations.

References: URC-12-130 and 140, Utah Program Description Section III.H., and Governor Matheson's letter dated November 14, 1983.

Personnel

20. *Qualifications of Regulatory and Inspection Personnel.* The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be evaluated and inspected.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. The person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection.

It is recognized that there will also be persons in the program performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory

program and deal with both routine situations as well as some which will be out of the ordinary. These people should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with the regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, the trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories, proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or at its command, not only for routine functions, but also for emergency cases.

a. *Number of Personnel.* There are approximately 150 NRC specific licenses in the State of Utah. Under the proposed agreement, the State would assume responsibility for about 135 of these licenses. The Bureau of Radiation Control is currently staffed with five professional persons. In addition, there is currently one vacancy in the program. Two individuals will be assigned full time to the materials program. Three others will be trained to provide backup. We estimate the State will need to apply a minimum of 1.4 to 2.0 staff-years of effort to the program. The present personnel together with their assigned responsibilities are as follows:

Larry F. Anderson: Director, Bureau of Radiation Control. Responsible for administration of Bureau programs. Estimated 0.2 staff-year in materials program.

Blaine Howard: Health Physicist. Responsible for licensing and inspection in materials program. Estimated 1.0 staff-year in materials program.

Arnold J. Peart: Radiation Specialist 23. Responsible for licensing and inspection in materials program. Estimated 1.0 staff-year in materials program.

Donald G. Mitchell: Health Physicist. Responsibilities primarily in x-ray program. Will receive training in licensing and inspection in materials program. Estimated 0.1 staff-year in materials program.

Gerald R. Ripley: Health Physicist. Responsibilities primarily in x-ray program. Will receive training in licensing and inspection in materials program. Estimated 0.1 staff-year in materials program.

b. *Training.* The academic and specialized short course training for those persons involved in the administration, licensing and inspection of radioactive materials is shown below.

Larry F. Anderson—B.S. Chemistry, MPA (Health), Brigham Young University.

NIOSH Course 549, *Recognition, Evaluation, and Control of Occupational Hazards.* October, 1972.

NIOSH Course 582, *Sampling and Evaluating Airborne Asbestos Dust.* April 10-12, 1973.

Utah State Division of Health, *Visible Emissions Evaluation Course.* June 19, 1973.

American Industrial Hygiene Association, *Industrial Toxicology Seminar.* A 24-hour course ending April 30, 1975.

OSHA, *Fundamentals of Occupational Injury Investigation.* Short course ending April 1, 1977.

United States Nuclear Regulatory Commission, *Radiological Emergency Response Operations Training Course.* A 64-hour course ending January 27, 1978.

U.S. Environmental Protection Agency, *Grants Administration Seminar.* A 16-hour course ending May 16, 1979.

Safety International Training Center, *Hydrogen Sulfide and Equipment for Instructors.* A 12-hour course ending June 19, 1979.

Rocky Mountain Center for Occupational and Environmental Health, University of Utah, *Health and Exposures in the Smelter Environment.* A 20-hour course ending March 29, 1980.

Blaine Howard—B.S. Math and Physics, Ricks College. M.S. Radiological Health, New York University. M.S. Physics and Math, Brigham Young University.

Medical X-Ray Protection—BRH Rockville, MD.—October 30-Nov. 10, 1972.

Radiological Emergency Response Operations (REPR), Las Vegas and Nevada Test Site, 1978.

"States Role in Radioactive Material Management." The National Legislative Conference, Las Vegas, Dec. 9-11, 1974.

Drinking Water Regulations and Radioanalytical workshop EPA, Denver, Jan. 10-12, 1978.

X-Ray Workshop, Richfield, Utah, Mar. 14-15, 1979.

Actinides in Man and Animals—Workshop, Snowbird, UT., Oct. 15-17, 1979.

Nuclear Medicine—NRC New York City, Sept. 8-12, 1980.

NWTS Annual Information Meeting—Columbus, Ohio, Dec. 8-10, 1980.

Waste Management 1981—American Nuclear Society, Tucson, AR, Feb. 23-27, 1981.

Orientation Course in "Licensing Practices and Procedures"—NRC, Silver Spring, MD., Sept. 14-25, 1981.

Inspection Procedures Course—NRC, Atlanta, GA, July 26-30, 1982.

Arnold J. Peart—B.S. Education, Utah State University (minor—chemistry and math).

Nuclear Regulatory Commission—Orientation Course in licensing practices and procedures, 1982.

Nuclear Regulatory Commission—Medical Use of Radionuclides, 1982.

Federal Emergency Management Agency—Radiological Emergency Response Course, 1982.

Nuclear Regulatory Commission—Radiochemistry for State Regulatory Personnel, 1983.

Dept. of Health and Human Services—Basic Course for Investigators, Diagnostic X-Ray Survey, 1983.

Nuclear Regulatory Commission—Safety Aspects of Industrial Radiography, 1983.

Donald G. Mitchell—B.A. Chemistry and Physics, Brigham Young University. M.S. Physics and Math, University of Wisconsin.

Oak Ridge Assoc. Univ.—Health Physics (10 weeks) 1976.

Reynolds Electrical and Engineering—Rad. Emergency Response, 1978.

Food and Drug Administration—Diagnostic X-Ray Survey, 1979.

U.S. Nuclear Regulatory Commission—Industrial Radiography, 1982.

Eastman Kodak Company—Radiological Imaging, 1982.

Gerald R. Ripley—B.S. Biology, University of Utah. B.S. Pharmacy, University of Utah.

c. *Experience.* Mr. Anderson has been with the Bureau since 1972 and has had supervisory and administration responsibilities since 1978. Mr. Howard has been a health physicist with the State since 1972 and has had experience in health physics since 1954. Mr. Howard was certified by the American Board of Health Physics in 1978. Mr Peart has been employed by the State since 1975, from 1975 to 1982 as an industrial hygienist and from 1982 as a radiation specialist. Messrs. Howard and Peart have accompanied NRC inspectors on materials inspections in

the State of Utah. Mr. Mitchell has been a health physicist with the State since 1975. Prior to 1975 Mr. Mitchell had experience as a radiochemist and a teacher of chemistry and physics. Mr. Ripley has been a health physicist and industrial hygienist with the State since 1979. Mr. Ripley has prior experience as a radiochemist and pharmacist.

Reference: Utah Program Description Section IV and Appendix B.

21. *Conditions Applicable to Special Nuclear Materials, Source Material and Tritium.* Nothing in the State's regulatory program shall interfere with the duties imposed on the holder of the materials by the NRC, for example, the duty to report to the NRC, on NRC prescribed forms (1) transfers of special nuclear material, source material and tritium and (2) periodic inventory data.

The State's regulations do not prohibit or interfere with the duties imposed by the NRC on holders of special nuclear material owned by the U.S. Department of Energy or licensed by NRC, such as the responsibility of licensees to supply to the NRC reports of transfer and inventory.

Reference: URC–12–040 and 125.

22. *Special Nuclear Material Defined.* The definition of special nuclear material in quantities not sufficient to form a critical mass, as contained in the Utah Radiation Control Regulations, is uniform with the definition in 10 CFR Part 150.

Reference URC–12–050, Definition (60).

Administration

23. *Fair and Impartial Administration.* The Utah Health Code provides for administrative and judicial review of actions taken by the Department of Health. Any person may, upon written request, be given an opportunity for an informal hearing before the Department. If the matter cannot be resolved at the informal hearing, the person may then request a hearing before an impartial hearing officer. The person may then file in the district court for judicial review of a final determination of the executive director of the Department.

Reference: Utah Health Code Section 26–23–2.

24. *State Agency Designation.* The Utah Department of Health has been designated as the State's radiation control agency.

References: Utah Health Code 26–1–28. Governor's Matheson's letter dated November 14, 1983.

25. *Existing NRC Licenses and Pending Applications.* The Bureau has made provision to continue NRC licenses in effect temporarily after the transfer of jurisdiction. Such licenses will expire either 90 days after receipt from the Bureau of a notice of expiration or on the date of expiration specified in the federal license, whichever is earlier.

Reference: URC–12–165.

26. *Relations With Federal Government and Other States.* There should be an interchange of Federal and State information and assistance in connection with the issuance of regulations and licenses or authorizations, inspection of licensees, reporting of incidents and violations, and training and education problems.

The proposed agreement declares that the State will use its best efforts to cooperate with the NRC and other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that the State's program will continue to be compatible with the Commission's program for the regulation of like materials.

Reference: Governor Matheson's letter dated November 14, 1983, Proposed Agreement Between the State of Utah and the Nuclear Regulatory Commission, Article VI.

27. *Coverage, Amendments, Reciprocity.* The proposed Utah agreement provides for the assumption of regulatory authority under the following categories of materials within the State:

(a) Byproduct materials, as defined by Section 11e(1) of the Atomic Energy Act, as amended.

(b) Source materials.

(c) Special nuclear materials in quantities not sufficient to form a critical mass.

Reference: Proposed Agreement, Article I.

Provision has been made by Utah for the reciprocal recognition of licenses to permit activities within Utah of persons licensed by other jurisdictions. This reciprocity is like that granted under 10 CFR Part 150.

Reference: URC–19–250.

28. *NRC and Department of Energy Contractors.* The State's regulations provide that certain NRC and DOE contractors or subcontractors are exempt from the State's requirements for licensing and registration of sources of radiation which such persons receive, possess, use, transfer, or acquire.

Reference: URC–12–125(2).

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states: The Commission shall enter into an agreement under subsection b of this section with any State if:

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) The Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatiable with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed amendment.

The staff has concluded that the State of Utah meets the requirements of Section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed agreement. Since the State is not seeking authority over uranium milling activities subsection o. is not applicable to the proposed Utah agreement.

Dated at Bethesda, Maryland, this 20th day of December 1983.

For the U.S. Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

Appendix A—Proposed Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, As Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to by-product materials as defined in sections 11e. (1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of Utah is authorized under Utah Code Annotated 26–1–29 to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Utah certified on November 14, 1983 that the State of Utah (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on ——— , that the program of the State for the regulation of the materials covered by this Agreement is compatible with the

Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. Byproduct materials as defined in section 11e.(1) of the Act;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission;

E. The land disposal of source, byproduct and special nuclear material received from other persons; and

F. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

Article III

This Agreement may be amended, upon application by the State and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E or F, whereby the State can exert regulatory control over the materials stated therein.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article VI

The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j. of the Act, temporarily suspend all or part of this agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

Article IX

This Agreement shall become effective on ———, 1984, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Salt Lake City, Utah, in triplicate, this ——— day of ———, 1984.

For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino,

Chairman.

For the State of Utah.

Scott M. Matheson,

Governor.

Appendix B—Narrative Portion of Program Description

State of Utah Bureau of Radiation Control Radiation Regulatory Program

I. Foreword

The 1967 Utah Legislature passed the "Radiation Protection Act" which authorized the State Board of Health to require the registration of ionizing radiation sources and to adopt the necessary rules and regulations for controlling exposure to harmful ionizing radiation (26–1–27). The State Department of Health was designated to establish, carry out and enforce a radiation control program. (26–1–28). The governor was authorized to enter into agreements with the federal government to assume certain responsibilities with respect to sources of ionizing radiation. (26–1–29).

Upon a decision by the Utah Attorney General's office that the 1967 legislation was not sufficient to carry out these functions, the 1981 legislature passed a revised version which overcame the deficiencies by adding authority to license.

Copies of this legislation are enclosed as Appendix A. The Bureau of Radiation Control is now aggressively pursuing Agreement status.

II. History

Previous to 1961, radiation problems received limited attention. During this time attention was called to a proposal to use radioactive tailings from the Vitro uranium mill as fill material in the construction of an interstate highway. The Department of Health maintained its position which had been established earlier in refusing permission to move any of the material for any purpose. This position has continued as Utah sought help from federal agencies to define the problems associated with uranium mill tailings.

In 1961, a chemist was added and assigned to work ¼ time in radiation related matters. He received training in x-ray from the U.S. Public Health Service and attended a 10 week course in Health Physics at Oak Ridge, Tennessee. He accompanied AEC inspectors

as they visited licensees in Utah and inspected x-ray facilities upon request. In 1962 the U.S. Public Health Service assigned one of their staff to survey the x-ray facilities in Utah. He spent just over a year and surveyed all the x-ray facilities in Utah.

In 1962 high levels of radioactive contamination from the Sedan Atomic test at the Nevada Test Site were found in Utah milk. The Health Department diverted the most highly contaminated milk from human use until the Iodine-131 could decay. This called attention to the need for a radiological laboratory in Utah. With the assistance of the U.S. Public Health Service a laboratory was established in 1964 with both wet chemistry and instrumental analysis. The laboratory has been continually upgraded. A lithium drifted germanuim detector with computer electronics was added and, at present, the laboratory has provisional interim certification for drinking water analysis for gross alpha, gross beta, radium-226, radium-228 and tritium.

As a result of the Sedan contamination problem, a milk sampling network was established and weekly samples were analyzed for contamination until well after atmospheric testing was discontinued at the Nevada Test Site. Until 1972 medical and dental x-ray facilities were surveyed upon request and some industrial x-ray facilities were looked at.

In 1972, the Radiation and Occupational Health Section of the Division of Environmental Health was expanded by addition of three more professionals, one a full-time health physicist. Efforts were made to establish radiation control regulations but opposition was encountered and these efforts were unsuccessful. Inspections of x-ray facilities were performed using NCRP Recommendations as a standard. Letters were sent to the facilities specifying items of deficiency. The majority of the installations complied voluntarily with the recommendations. Bureau staff members have accompanied AEC (NRC) inspectors on numerous inspections of Utah licensees, contributing to the inspection report by invitation.

In 1972, Bureau staff assisted the Environmental Protection Agency in sampling for radon and radon daughters on and near the Vitro uranium mill site. A network of samplers was set up and serviced by Radiation and Occupational Health personnel. In 1973, Utah cooperated with the Bureau of Radiological Health in its Nationwide Evaluations of X-ray Trends (NEXT) to gather statistical data about x-ray exposure to the public. This study (NEXT) was continued for a number of years.

In 1975, a second professional health physicist was employed full time in radiological health. With this additional help a dental x-ray program, Dental Exposure Normalization Technique (DENT) was carried out to reduce exposure to patients from dental x-rays. The new techniques which were selected by the dentists reflect a 49% reduction in dental x-ray exposure. Programs were conducted with practitioners of various disciplines to improve radiographic quality while reducing patient exposure. In 1978, radon daughter concentrations were measured in some Salt Lake County businesses which were more than 5 times the maximum continuous levels allowed in uranium mines. This gave additional impetus to bills being introduced into Congress by the Utah delegates which asked for federal assistance for the clean up of uranium mill tailings. These efforts and the efforts of other states culminated in the passage of Pub. L. 95-604 "The Uranium Mill Tailings Radiation Control Act of 1978".

In 1972, an E.P.A. study identified many locations throughout much of Utah where the use of uranium mill tailings as fill material was indicated. Beginning in 1978, indoor radon measurements were made by the Bureau of Radiation Control at those locations in Salt Lake County where uranium mill tailings were used near or under habitable buildings. Through the cooperation of the U.S. Department of Energy, aerial surveys were made to complete the identification of sites where tailings were used in a large part of Salt Lake County and other Utah communities. Some additional businesses were found with high radon concentrations.

In 1979, a third full time health physicist was added to the staff to work with uranium mill tailings remedial action and assist with a new contract with the Bureau of Radiological Health to make compliance surveys of new diagnostic x-ray machines.

In 1980, a fourth full time health physicist was added to the staff to provide technical support for the governor's "High Level Nuclear Waste Task Force". This task force was appointed on June 2, 1980 to oversee the U.S. DOE's field operations in Utah, make recommendations to the governor and communicate information to the people of Utah.

In 1981, a contract was signed with Mound Laboratory for the State to monitor properties near the Vitro Uranium mill. A health physics technician was added to the staff to fill the Mound contract requirements.

In July 1981, the occupational health functions were transferred to the Industrial Commission and the Bureau was renamed the Bureau of Radiation.

In January 1982, the Bureau of Radiation was divided to form the Bureau of Uranium Mill Tailings Management and the Bureau of Radiation Control. The Bureau of Radiation Control under a new director was given the task of preparing a complete radiation control program in preparation for entering an agreement with the U.S. Nuclear Regulatory Commission.

In December 1982, the Bureau of Uranium Mill Tailings Management was combined with the Bureau of Radiation Control with the new organization as indicated on the Function Chart in Appendix B.

The Utah Radiation Control Regulations were formally adopted and became effective on January 1, 1983. Since that date, the Bureau has been licensing and inspecting users of naturally occurring and accelerator produced radioactive materials (NARM). The regulations provide for a "Radiation Technical Advisory Committee" of eight (8) members to advise, comment and provide technical assistance to the Bureau Director.

III. Administrative Policy and Procedures

A. *Introduction and Purpose.* The following procedures are to assure uniformity, continuity and appropriate treatment in all licensing, registration and regulatory practices and to maintain radiation exposures to all persons in the State as low as is reasonably possible.

Procedures are also to assure that emergency response to radiological incidents is correlated with the appropriate government agencies and that the proper information is provided to the public.

Procedures shall also provide for feedback to the Bureau director from the staff on the status of activities in regard to regulatory actions, problem cases, inquiries and need for regulation revisions.

B. *Priority of Responsibilities.* The responsibilities for Radiation Control, after the program is established, shall be given priority in the following order:

1. Emergency response to radiological incidents.
2. Respond to request by workers for inspection.
3. Routine inspection of radiation sources.
4. Reinspection of non-compliant facility and enforcement procedures.
5. Registration or licensing of radiation sources.
6. Review plans as submitted under URC-28-032.
7. Assist licensee in developing program under URC-24-015.

C. *Emergency Response Procedures.* Emergency response to radiological incidents will take precedence over other duties and will require immediate response by one or more technical staff.

1. Names of emergency response team members will be left with the department operator during off duty hours.
2. Emergency response kits will be kept in the office ready for immediate response.
3. When an emergency situation is reported the following information will be obtained.
   a. Name and telephone number of caller.
   b. Alternate contact and telephone number.
   c. Company or agency of caller.
   d. Location of incident.
   e. Type and amount of radioactive material.
   f. Detailed account of the problem.
   g. Shipper address and telephone number.
   h. Consignee address and telephone number.
   i. Who has been called in.
4. The leader of the emergency response team will have successfully completed the NRC Radiological emergency response training course.
5. All questions by the news media will be referred to the Bureau Director.

D. *Procedure for Response to Workers Request for Inspection.* 1. The request for inspection shall be in writing and outline the alleged violations.

2. The request shall be reviewed by bureau personnel and compared to past inspection reports.

3. A copy of the alleged violations will be delivered to the licensee at the time of the inspection.

4. Response to the request by workers that an inspection be performed under URC–48–070 shall be made as soon as practicable, preferably no later than 7 working days from receipt of written request.

5. Following the inspection a written report will be furnished to the complianant of any violations of the Bureau of Radiation Control Regulations.

6. The identity of the individuals requesting the inspection shall be protected as provided for in URC–48–070.

E. *Procedure for Registration of Ionizing Radiation Machines.** The following outline describes the procedures for keeping track of the registration and survey program. In all cases, the registrant should submit a completed BRC Form 10 along with the registrant's signature. Once the secretary has received this application, a registration certificate will be typed on BRC Form 11 and issued to the applicant.

1. Registration.

a. On receipt of an application:

(1) Check to assure that applicant has not previously been registered.

(2) If not registered, obtain new registration number, county-discipline-sequential.

(3) Note if the appropriate fee is enclosed. If any discrepancies are noted, registration and fee is returned for corrective actions by registrant.

b. Initiate folder.

(1) Place application form and a copy of the registration certificate in the folder. Add any other correspondence concerning this registration.

(2) Original copy of registration certificate is sent to the registrant for his files.

c. Registrant's name, address, registration number, inspection due date, and inspection information will be entered on to the word processor.

d. Mail the original certificate to the registrant. If a new registrant, the following will be included with this certificate:

(1) Notice to Employee, BRC Form 4.

(2) Copy of those sections of the Bureau of Radiation Control Regulations that apply.

2. Change in Registration.

a. Address Change.

Change all registration sheets and update word processor and indicate date.

b. Equipment Change.

Change all registration sheets and update word processor and indicate date.

c. Deaths.

(1) Mark all registration sheets accordingly.

(2) Mark manila folder "inactive", only if (4) is completed.

(3) Do not re-issue number.

(4) Locate and maintain surveillance on equipment until it is properly disposed of.

d. Retirements.

(1) Mark all registration sheets accordingly.

(2) Mark manila folder "inactive", if (4) is completed.

(3) Do not re-issue number.

(4) Make sure machine is properly disposed of.

3. Procedures for Handling Completed Survey Reports:

After an x-ray unit has been registered, staff members will perform a radiation survey to determine if the registrant meets the Bureau of Radiation Control regulations. During this survey, the staff member(s) will place data on "survey reports". All reporting documents will be held in registrant's file. A letter to the registrant will be issued from the Bureau informing him if he is in compliance or explain items of non-compliance.

a. File result sheet in manila folder. The letter indicating compliance or listing items of non-compliance will be issued within 15 days after completion of inspections. A copy of this will be filed with the survey result sheet in the manila folder.

b. Non-Compliance Survey Reports.

The non-compliance survey reports will be filed on the word processor, 30-day action is required.

4. Follow-up Procedure.

a. Pull non-compliant registrants from word processor on a monthly basis for follow-up. If installation becomes "in compliance" the data on the word processor will be corrected, if non-compliance continues further action will be taken.

b. Send follow-up letters to all appropriate registrants with non-compliances, note issuance of follow-up letter on word processor.

c. If answer is not received during second 30 day period, an additional 15-day notice will be written.

d. If answer is not received during 15-day period, file will be referred to the Attorney General's office for appropriate action.

5. Procedures When "Non-Compliance" Items are corrected.

a. We will accept a written notice with signature that items of non-compliance have been corrected.

b. Upon receiving such information the following will be done:

(1) The compliance action notice from the responsible person will be placed in the manila folder for future inspection and a corrective action letter will be issued by the Bureau.

(2) Result sheet will be marked compliance by indicating date information was received and by what route. The information will be left in the manila folder.

F. *Procedures for Licensing Radioactive Material:* The specific material to be licensed by the State will be: (a) By-product material (as defined under 11(a) of the Atomic Energy Act of 1954 as amended), (b) Source Material, (c) Special nuclear material in quantities not sufficient to form a critical mass. The United States Nuclear Regulatory Commission Guides will be used for evaluation of all radioactive material applications.

1. All applicants must submit a completed state form (e.g., BRC–01 or BRC–02) along with the application fee. Once the application is received, a file folder will be created and a sequence number given.

2. Applications will be reviewed in sequence by assigned staff. Staff reviewing license applications will have completed the NRC course on licensing practices and procedures.

3. Reviewing staff will determine if application is for a new license, renewal or an amended license. Renewal and amended license applications will be referred to the original file.

4. The reviewer shall determine if all requested material has been submitted and fees paid. If material is not complete or if fees have not been paid, the applicant will be notified that no processing of the application will take place until those items are rectified.

5. If the application is in order and fees paid, it will be reviewed using the following guide lines:

a. Does the application meet the requirements of the BRC regulations?

b. Is the applicant qualified by reasons of training and experience?

c. Are the facilites adequate to carry out the proposed activity? (This may include onsite inspections.)

6. If the application meets all the requirements a license will be issued using form BRC–03 and listing any special conditions or limitations which are applicable.

a. Included with the license mailed to the licensee will be a copy of "Notice to Employees" BRC Form–04 and a copy of Bureau of Radiation Control regulations that apply.

b. A copy of the license and the application will be placed in the applicants permanent file.

c. One file on the word processor will be completed for each license, including the name and address of applicant, the license number, the inspection due date, completed inspection date and remarks.

7. If the application does not meet the requirements, the applicant will be notified by letter of any deficiencies, or any additional information and changes which may be necessary.

G. *Inspection priority.*

Priority	Type of license or facility	Inspection frequency	
		Initial (months)	Routine (months)
I	Reserved		
II	Radiography (field), Medical-Broad, Academic Type A, Uranium-By-product.	6	10
III	Hospital x-ray, Orthopedic x-ray Clinics, Radiology x-ray Clinics, Therapeutic x-ray, Accelerators, Radiography (in-house).	6	12
IV	Waste collection, (prepackaged waste only) Industrial, Industrial type B Broad.	6	15
V	Industrial Limited, Academic, Civil Defense, Soil Moisture and Density Gauges, Chiropractic x-ray, other medical x-ray.	6	18–24
VI	Medical limited, Eye Applicator, Gauge Repair, Gauge Use, Chromatography, Light Sources, Leak Test Services, Calibration Sources, Dental X-Ray.	6	12–36
VII	Veterinary x-ray	12	48
VIII	Teletherapy	6	24
IX	Walk In Type Irradiator	6	12

*Note.—Other medical x-ray includes all diagnostic x-ray except hospitals, radiology clinics, orthopedic clinics, dental and veterinary x-ray.

H. *Enforcement Procedures.* The United States Nuclear Regulatory Commission

*Note.—See Definition URC–12–050(43) in Utah Radiation Control Regulations.

Inspection Guides will be used to establish format for inspection procedures.

1. Following an inspection, the licensee will be notified by letter of (a) compliance including the results of the inspection, or (b) the areas of non-compliance and requesting written notification within 30-days describing:

a. Corrective steps which have been taken by the licensee and the results achieved.

b. Corrective steps which will be taken to prevent recurrence; and

c. The date when full compliance will be achieved.

2. If response in not received in 30 days, a second letter will be sent requiring response within 15 days to avoid issuance of an order or other legal proceedings.

3. An order is a written directive to modify, suspend or revoke a license; to cease and desist from a given practice or activity, or to take such other action as may be appropriate.

a. License modification order will be issued when some change in licensee equipment, procedures, or management controls is necessary.

b. Suspension Orders will be used:

(1) To remove a threat to the public health.

(2) When licensee has not responded adequately to other enforcement action.

(3) When the licensee interfers with the conduct of an inspection; or

(4) For any reason not mentioned above for which license revocation is legally authorized.

c. Revocation Orders will be used:

(1) When a licensee is unable or unwilling to comply with bureau requirements;

(2) When a licensee has refused to correct a violation;

(3) When a licensee does not pay a fee required by the bureau.

d. Cease and desist orders are used to stop an unauthorized activity that has continued despite notification by the Bureau that such activity is unauthorized.

e. Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the modification is afforded.

4. If repetitive serious violations occur, BRC will consider issuing orders in conjunction with other enforcement actions to achieve immediate corrective actions and to deter further recurrence of serious violations.

5. Related administrative actions.

a. In addition to the formal enforcement mechanisms of notice of violation and orders, BRC will also use conferences, bulletins, circulars, information notices, notices of deviation, confirmatory action letters, defined as follows:

(1) Enforcement conferences are meetings held with licensee management to discuss safety, health and compliance with regulatory requirements.

(2) Bulletins, circulars and information notices are written notices to groups of licensees identifying specific problems and calling for or recommending specific actions on their part.

(3) Notice of Deviation are written notices describing a licensees failure to satisfy a commitment.

(4) Confirmatory action letters are letters confirming a licensee's agreement to take certain actions.

I. *Policy For Review of Plans Submitted Under URC-28-032 (Preconstruction Review of Shielding Plans).* 1. Plans should be submitted a minimum of 30 days before anticipated construction.

2. If it appears that additional shielding would be adviseable, this recommendation would be made in writing to those submitting the plans within 30 days of receiving the plans for review.

J. *Policy for Staff Assistance in Developing ALARA Programs in Accordance with URC-24-015 (This Section Requires Implementation of ALARA Programs and Offers Assistance by the Bureau When Requested).* 1. ALARA programs submitted to the Bureau shall be reviewed by the Staff. If the program is deficient, recommendations will be made to upgrade the program.

2. During each inspection, the ALARA program will be reviewed with the registrant or licensee.

3. A list of successful methods will be made and given to those requesting assistance.

K. *Staff Training Policy.* 1. Update training will be conducted on a regular basis to enhance technical proficiency. The goal of in-house training will be to maintain a basic understanding of the following topics:

a. Atomic structure and natural radioactivity.

b. Properties of Alpha and Beta Particles, Gamma Rays, X-Ray and Neutrons.

c. Radiation units and external dose determinations.

d. Biological effects of radiation.

e. Shielding.

f. Operation and calibrations of instruments for measurements of ionizing radiation.

g. Inspection procedures.

h. Special topics as needed.

2. The staff will be sent to national courses in all aspects of Radiation Control as federal or state funds are available.

3. Each staff member will be encouraged to devote some time to personal study and be working toward certification as a health physicist.

L. *Media Relations.* Media relations and the Bureau of Radiation Control can be divided into two general categories: the regular release of information and the information release following an incident involving radioactive material.

Regular Information Release. All information released to the media is to go through the Department of Health's public information officer. The policy for the Division of Environment Health has been to have the draft press release prepared by the bureau and then approved by the divisions director. This is then sent to the public information officer for release.

Telephone press inquiries are generally handled by the bureau director who then briefs the public information officer on the interview. Requests for television interviews are relayed to the public information officer with background as to the reason for the request.

The bureau director is to keep the public information officer current on any aspects of his programs which may attract media attention. This includes briefings on *potentially significant new stories.* The bureau director will also work with the public information officer on specific issues which could or should be brought up in the press. Such briefings are important to keep the public information officer current on concerns and programs of the bureau to give him the necessary background on the bureau's activities. The public information officer will make such arrangements as feature stories, interviews, press conference or other means best suited to the material to be disseminated. The spokesman for the Bureau of Radiation Control is the bureau director or the public information officer.

It is imperative in such situations that timely, accurate and current notices to the public through the press be maintained. Special attention is to be paid to stopping rumors, correcting misinformation and presenting an accurate assessment of the situation which the public can understand. Ignorance and fear can lead to panic. The press can be of great help in preventing panic and in helping make people aware of the real dangers involved, need to evacuate, etc.

A single spokesman for the Department of Health is to be established. Unless otherwise indicated by the Executive Director, Utah Department of Health, this spokesman is the public information officer. He will work closely with the bureau director and division director in his dealings with the press. There should be no unauthorized interviews by staff or others speaking for the Department of Health. Requests for statements or interviews should be directed to the public information officer, division director or bureau director.

The Media and "Incident" Coverage. The public information officer for the Department of Health should be notified immediately of any incident related to radioactivity which is a threat to the public health. Depending on the nature and extent of the incident, his activities will be coordinated with the Division of Comprehensive Emergency Management.

It is advantageous to establish a central press room if the scene of the incident is not accessible. This will make it possible for regular and timely updates.

Statements made on the scene of the incident should be limited to the known facts and not conjecture or possibilities. The press should be referred to the public information officer or bureau director by staff when they are approached by the press for interviews or comments.

IV. Organization, Staff and Equipment

The "Utah Health Code" adopted by the 1981 Utah Legislature created a "Department of Health" from the "Division of Health" of the Department of Social Services. The code gave unto the Department of Health authority to require the registration and licensing of hazardous sources of radiation and to adopt necessary rules for controlling radiation exposure to such sources. The code also directed the Department of Health to establish, carry out, and enforce a radiation control program pursuant to the adopted

rules and any federal-state agreement (The 1981 "Utah Health Code" is contained in Appendix A with pertinent statutes).

The Department of Health is divided into four Divisions. (1) The Division of Health Planning and Facilities; (2) The Division of Environmental Health; (3) The Division of Community Health Services; and (4) The Division of Family Health Services. The Division of Environmental Health is divided into six (6) Bureaus including the Bureau of Radiation Control which includes the functions of the Bureau of Uranium Mill Tailings Management. The Bureau is only concerned with title I UMTRPA activities. A chart showing the organization of the Department of Health and a function chart of the Bureau of Radiation Control are contained in Appendix B. Since this chart was drawn, a recombination of the Bureau of Radiation Control and the Bureau of Uranium Mill Tailings Management was effected with the structure as indicated in the function chart also included in Appendix B. The current staff includes one (1) health physicist certified by the American Board of Health Physics, two (2) health physicists one with extensive experience, and one (1) other staff member undergoing in-house training and attending NRC training courses.

Personnel working in Radioactive Materials Program:

Name	Time (percent)	Responsibilities
Larry F. Anderson	20	Administrative.
Blaine Howard	100	Licensing and Inspections.
Arnold J. Peart	100	Licensing and inspections.
Donald G. Mitchell	10	Training in Licensing and Inspection.
Gerald R. Ripley	10	Training in Licensing and Inspection.
New Hire	10	Training in Licensing and Inspection.

Resume's of the current staff are included in Appendix B. The five categories of job descriptions included in the appendix will all be necessary to allow for promotion incentives for the in-house training program. This will allow hiring of individuals with limited experience and involving them in our training program with advancement available when training and experience requirements are reached.

Standard letters, standard forms, and license conditions have been prepared. Copies of the most recent versions of these materials have been included in Appendix C.

The Bureau has on hand sufficient equipment and instrumentation for the adequate conduct of the present Radiation Control Program. An inventory of this equipment is included in Appendix D.

The Utah Legislature has authorized appropriations to carry out the regulatory functions of the Bureau.

V. Emergency Response

All of the current technical staff have attended the training course in Radiological Emergency Response Operations for Radiological Emergency Response Teams of State and local governments formally sponsored by the Office of State Programs, U.S. Nuclear Regulatory Commission. The Bureau has developed a radiological comprehensive emergency management section with the Utah Highway Patrol.

[FR Doc. 83-34511 Filed 12-29-83; 8:45 am]

BILLING CODE 6560-50-M

federal register

Friday
December 30, 1983

Part IV

Environmental Protection Agency

Proposed Test Rule for Hexafluoropropylene Oxide and Response to Interagency Testing Committee's Recommendation to Require Testing of Other Halogenated Alkyl Epoxides

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42044; FRL 2465-2]

Hexafluoropropylene Oxide Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Interagency Testing Committee (ITC) recommended that EPA consider requiring health effects testing of halogenated alkyl epoxides. Under section 4(a) of the toxic Substances Control Act (TSCA), EPA is proposing that the manufacturers and processors of hexalfuoropropylene oxide (HFPO), one member of the category of halogenated alkyl epoxides, test HFPO for mutagenicity, oncogenicity, and reproductive effects. EPA is not proposing that HFPO be tested for teratogenicity as recommended by the ITC because the Agency has found no evidence to suggest that HFPO may produce teratogenic effects. EPA is also not proposing an epidemiology study for HFPO because a suitable cohort is not available. EPA is not initiating rulemaking to require testing of other members of the category of halogenated alkyl epoxides at this time. A separate notice published in today's **Federal Register** explains that decision.

DATES: The public is asked to submit written comments on this proposed rule on or before February 28, 1984. If persons request time for oral comment by February 13, 1984, EPA will hold a public meeting on March 14, 1984, to receive oral comments on this proposed rule in Washington, D.C. For further information on arranging to speak at the meeting see Unit VI of this preamble.

ADDRESS: Address written comments identified by the document control number (OPTS-42044) in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Rm. E-108, Washington, D.C. 20460.

A public version of the administrative record supporting this action, with confidential business information deleted, is available for inspection at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, D.C. 20460; toll free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.. 2601 *et seq.*) authorizes EPA to promulgate regulations requiring testing of chemical substances and mixtures to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated halogenated alkyl epoxides for priority consideration in its Second Report, published in the **Federal Register** of April 19, 1978 (43 FR 16684). The ITC defined this category of halogenated alkyl epoxides as "halogenated noncyclic aliphatic hydrocarbons with one or more epoxy functional groups." Seven specific compounds in this category were discussed in the ITC's Report: 1-chloro-2,3-epoxy propane (epichlorohydrin or ECH); 1,1,1-trichloro-2,3-epoxypropane (TCPO); 1-bromo-2,3-epoxybutane (epibromohydrin or EBH); 1,4-dichloro-2,3-epoxybutane (DCBO); 1,1,1-trichloro-3,4-epoxybutane (TCBO); tetrafluoroethylene oxide (TFEO); hexafluoropropylene oxide (HFPO).

The ITC recommended that halogenated alkyl epoxides be considered for testing for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects, and that epidemiology studies should be considered. The ITC's recommendations for this category were based on: (1) High production levels for one member of the chemical category (500 million pounds annually for epichlorohydrin), (2) a National Institute for Occupational Safety and Health (NIOSH) estimate that between 50,000 and 140,000 workers are exposed to epichlorohydrin annually, (3) expected increases in the use of other halogenated alkyl epoxides, and (4) limited studies on oncogenic, mutagenic, teratogenic, and other chronic effects of halogenated alkyl epoxides.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance or mixture to develop health or environmental test data if the Agency finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environmnent,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effect is necessary to develop such data.

EPA uses a weight of evidence approach in making a section 4(a)(1)(A)(i) finding in which both exposure and toxicity information are considered to make the finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure, and release information to determine if there is or may be substantial production and substantial or significant exposure or substantial release. For the second finding under both sections 4(a)(1)(A) and 4(a)(1)(B), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules. The section 4(a)(1)(A) findings are discussed in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300) and the section 4(a)(1)(B) findings are discussed in the **Federal Register** of June 15, 1981 (46 FR 30302).

In evaluating the ITC's testing recommendations for halogenated alkyl

epoxides, EPA considered all available relevant information including the following: Information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of halogenated alkyl epoxides under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); unpublished health and safety studies submitted by manufacturers of halogenated alkyl epoxides under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716); and other published and unpublished data available to the Agency. On the basis of its evaluation as described in this preamble and the accompanying technical support document, EPA is proposing mutagenicity, oncogenicity, and reproductive effects testing requirements for hexafluoropropylene oxide under section 4(a)(1)(A) of TSCA. EPA is not initiating rulemaking to require testing of other members of the category of halogenated alkyl epoxides at this time. A separate notice published elsewhere in this issue of the **Federal Register** explains that decision.

II. Hexafluoropropylene

A. Profile

Hexafluoropropylene oxide, CAS No. 428-59-1, is a gas at ambient temperature and pressure. Only one company produces HFPO in the United States. Specific production, use, exposure, and release data submitted by the manufacturer to EPA were claimed confidential. HFPO is reported in the open literature to be used as a chemical intermediate in the manufacture of fluorinated substances.

B. Findings

EPA is basing its proposed testing on the authority of section 4(a)(1)(A) of TSCA.

1. EPA finds that the manufacture and processing of HFPO may present an unreasonable risk of injury to the health of workers. EPA has reached this conclusion because: (1) Available information indicates that the manufacture and processing of HFPO are the principal sources of exposure to this substance; (2) monitoring data indicate there is workable exposure to HFPO at levels that may elicit the effects of concern; and (3) substances that are structurally similar to HFPO have demonstrated oncogenic, mutagenic, and reproductive activity in animals and EPA believes there is the potential for HFPO to elicit similar effects. In addition, a subchronic study on HFPO, in which reduced spermatogenesis was observed, raises concern that HFPO may produce reproductive effects.

2. EPA finds that there are insufficient data to reasonably determine or predict the oncogenic, mutagenic, and reproductive effects of HFPO. EPA has reached this conclusion because there are no test data on HFPO relating to oncogenic and mutagenic effects. With regard to reproductive effects, the existing data on HFPO suggest that HFPO can produce reproductive effects, but are not sufficient to reasonably evaluate HFPO's potential to cause such effects.

3. EPA finds that testing of HFPO for oncogenicity, mutagenicity, and reproductive effects is necessary to develop data needed to evaluate that health risks posed by exposure to HFPO.

On the basis of these findings, the Agency is proposing a 2-year oncogenicity bioassay in animals as a basis for determining the oncogenic potential of HFPO. The Agency is also proposing a battery of short-term tests for gene mutation and chromosomal aberrations which it believes will provide an adequate basis for determining whether HFPO has mutagenic activity. The National Toxicology Program (NTP) is planning to conduct a *Salmonella typhimurium* mammalian microsomal reverse mutation assay (Ames assay) for HFPO, the results of which should be available in 1984. If NTP conducts an Ames assay for HFPO before this rule is final and the test is adequate, the selection of tests for gene mutation in the final rule will be based on the results of the Ames assay performed by NTP. In addition, EPA is proposing a 2-generation reproductive effects study in animals to provide an adequate basis for assessing HFPO's ability to produce reproductive effects.

EPA is not proposing that HFPO be tested for teratogenicity because there is no evidence to suggest that HFPO or structural analogues may produce teratogenic effects; therefore, a finding of potential risk cannot be made for this effect.

EPA is not proposing additional chronic effects testing other than the oncogenicity bioassay because EPA believes information from the bioassay, in conjunction with data from the subchronic study already performed on HFPO, will be sufficient to characterize the chronic effects of HFPO.

EPA is not proposing an epidemiology study of HFPO because a cohort large enough for a meaningful epidemiology study is not available at this time.

EPA does not find that the number of people exposed to HFPO is substantial or involves a significant segment of the population or that HFPO enters the environment in substantial quantities; consequently, the Agency is not proposing testing of HFPO under section 4(a)(1)(B) of TSCA.

The analyses on which these findings are based are presented in the technical support document for this rulemaking, "Assessment of Testing Needs: Hexafluoropropylene Oxide," which is available from the TSCA Assistance Office. The ITC's recommendations and EPA's proposed testing requirements are summarized below.

TESTING FOR HFPO

Test or study	ITC recommendation	EPA proposal
Carcinogenicity	Yes	Yes.
Mutagenicity	Yes	Yes.
Teratogenicity	Yes	No.
Reproductive effects	No	Yes.
Other chronic effects	Yes	No.
Epidemiology	Yes	No.

C. Test Substance

EPA is proposing that HFPO of at least 99 percent purity be used as the test substance. EPA has specified a relatively pure substance for testing because the Agency is interested in evaluating the effects attributable to HFPO itself.

D. Persons Required To Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that the manufacture and processing of HFPO may present an unreasonable risk to human health, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process HFPO at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule. The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every

person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement (as discussed in Unit II.F. below).

E. Approach To Adoption of Test Rules

1. *General Process.* On March 26, 1982, EPA announced a new approach to adoption of test rules (47 FR 13012). EPA intends to promulgate a general procedural rule in 40 CFR Part 770 which will contain the procedural requirements for this approach. However, because that procedural rule is not in effect, this proposed rule contains specific procedures for adoption of this test rule. If the general rule is promulgated before this proposal becomes final, the HFPO final rule will be modified to comport with the general procedural provisions.

Under the approach being followed for HFPO, test rule development will be a two-phase process. In phase I, EPA will propose that specific testing be required for HFPO. This phase of the rulemaking will allow the public to comment on the decision to require testing and the specific types of tests to be required. Phase II begins after promulgation of the phase I rule. In phase II, EPA will receive proposed study plans for the specific tests adopted in the phase I rule. EPA will propose those study plans for public comment. After comment, the Agency will adopt the study plans, as proposed or modified, as specific test standards for the tests required by the phase I rule. Persons who submit the study plans will be obligated to perform the tests in accordance with the test standards adopted.

2. *Letter of Intent To Test or Exemption Application.* The proposed rule would require manufacturers and processors of HFPO to perform certain test sets. (The term "test set" is used because certain mutagenicity tests in the proposal are tiered, and EPA is proposing that the person who tests must perform all the required tests in that tier.) Once the rule is in effect, 30 days after publication in the **Federal Register**, each current manufacturer would have 30 days to submit, for each required test set in paragraph (j) of the rule, either a letter of intent to perform the test set or an application for exemption. Each manufacturer who submitted a letter of intent to perform a specific test set would be obligated, first, to submit, within 90 days of the effective date, a proposed study plan for the test set and, ultimately, to perform the testing.

If manufacturers of HFPO performed all the required test set, processors of HFPO would not be required to test or to submit exemption applications. EPA would automatically grant them exemptions from the requirements of the rule.

If no manufacturer of HFPO submitted a letter of intent to perform a particular test set within the 30-day period, EPA would publish a notice in the **Federal Register** to notify all processors of HFPO. The notice would state that EPA had not received letters of intent to perform certain test sets and that current processors would have 30 days to submit, for each test set remaining, either a letter of intent to perform the test set or an exemption application for that test set. Each processor who submitted a letter of intent to perform a specific test set would be obligated, first, to submit, within 90 days of the publication of the **Federal Register** notice, a proposed study plan for the test set and, ultimately, to perform the testing.

If no manufacturer or processor submitted a letter of intent to perform a particular test set, EPA would notify all manufacturers and processors, by letter or through the **Federal Register**, that all exemption applications would be denied and that within 30 days all manufacturers and processors would be in violation of the rule until a proposed study plan is submitted for that test set.

Any person not manufacturing HFPO at the time the rule goes into effect, who later begins manufacturing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each required test set by the day the person begins manufacture. If EPA has published a notice in the **Federal Register** telling processors to submit letters of intent or exemption applications for certain test sets, any person not processing HFPO at the time the rule goes into effect, who later begins processing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each test set specified in the **Federal Register** notice by the day the person begins processing.

3. *Submission and Adoption of Study Plans.* Any manufacturer of HFPO who submitted a letter of intent to perform a test set would have to submit, within 90 days after the effective date of the rule, a proposed study plan for that test set. In the event manufacturers do not submit letters of intent for all the required test sets, any processor who submits a letter of intent to perform a specific test set would have to submit, within 90 days of the publication of the **Federal Register** notice notifying processors, a proposed study plan for that test set. Paragraph (e) of the rule describes the contents of a proposed study plan.

EPA proposed generic test methodology requirements (generic test standards) in the **Federal Register** of May 9, 1979 (44 FR 27334), July 26, 1979 (44 FR 44054), and November 21, 1980 (45 FR 77332). In response to concerns about the rigidity of generic test methodology requirements, EPA has changed its approach for providing test standards for TSCA section 4 test rules. It has issued generic test methodology guidelines to replace the previously proposed generic test methodology requirements. The TSCA guidelines have been published by the National Technical Information Service (NTIS), 53285 Port Royal Road, Springfield, VA. (703–482–4650), for health effects (PB 82–232984), environmental effects (PB 82–232992), and chemical fate (PB 82–233008). Good Laboratory Practice (GLP) standards for development of data on health effects of chemical substances under TSCA were proposed in the **Federal Register** of May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054). GLP standards for development of data on physical and chemical properties, persistence, and ecological effects on chemical substances under TSCA were proposed in the **Federal Register** of November 21, 1980 (45 FR 77353). These GLP standards will be promulgated as generic requirements. The final TSCA GLP standards will apply to the HFPO test rule.

For guidance in preparing study plans, EPA recommends that test sponsors consult the TSCA Test Guidelines and the TSCA GLP standards as referenced above, the Organization for Economic Cooperation and Development's (OECD) Guidelines, as adopted by the OECD Council on May 12, 1981, or the FIFRA Pesticide Registration Guidelines: Proposed Data Requirements published by the NTIS (see the **Federal Register** of November 24, 1982 (47 FR 53192), for a list of these guidelines).

Failure to submit a study plan would be a violation of the rule.

EPA would review the proposed study plans. If they are incomplete, the manufacturer or processor would be notified of the deficiency and would have 15 days to provide appropriate information to make the plan complete.

If the information is not provided in 15 days, the manufacturer or processor would be in violation of the rule. In addition, EPA would return to the appropriate stage of the process and require manufacturers or processors, as appropriate, to submit letters of intent, exemption applications, and study plans.

If the proposed study plan is complete, EPA would propose the study plan for comment. In particular, the request for comments would focus on whether the study plan will ensure that data from the test set will be reliable and adequate. There would be a 45-day comment period and the opportunity to present views orally upon request. After considering the public comment, EPA would adopt the study plan as proposed, or as modified in response to comment, as the test standard for the required test set.

The person who submitted the proposed study plan would be required to perform the testing according to that standard. Failure to perform the testing would be a violation of the rule.

F. Exemptions

EPA's proposed policy on application for exemptions from section 4 testing requirements was published in the Federal Register of July 18, 1980 (45 FR 48512). EPA intends to promulgate its final procedures for exemptions in 40 CFR Part 770. The exemption procedures described below and included in the proposed rule language are consistent with EPA's current thinking on exemption procedures. If the general rule is promulgated before this proposal becomes final, the HFPO rule will be modified to comport with the general procedural provisions.

Any manufacturer or processor of HFPO would be able to apply for an exemption. Any person who has applied for an exemption would not be in violation of the rule until such time as EPA denies the application.

If manufacturers perform all the required testing, processors would be granted exemptions automatically without having to file applications.

When EPA has received a proposed study plan for a test set and has adopted the plan as the test standard, EPA would conditionally grant all exemption applications for that test set. If the test sponsor later fails to perform the testing, EPA would notify all persons who had submitted exemption applications for that test set that the exemptions would be denied unless within 30 days a manufacturer or processor notified EPA of its intent to perform the test in accordance with the adopted test standards.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for HFPO. As noted in Unit II.C., EPA is interested in evaluating the effects attributable to HFPO itself and has specified a relatively pure substance for testing.

G. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its final GLP standards which will appear in 40 CFR Part 792.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the phase II rulemaking in which study plans are approved.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the Federal Register as required by section 4(d).

H. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of EPA for the purpose of determining compliance with any final rule for HFPO. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to EPA GLP standards and the test standards established in the phase II rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

I. Issues

1. As an alternative to testing, manufacturers and processors of HFPO could commit themselves to control the levels of HFPO to which workers are exposed based on control levels to be decided for epichlorohydrin, a structural analog of HFPO. Several bioassays indicate that epichlorohydrin is an oncogen in rats and provide sufficient information to assess the oncogenic hazard of epicholorohydrin. On the basis of these data, EPA has initiated an evaluation of the need to control exposure to epichlorohydrin to reduce its risk to humans. Because fluorinated compounds generally have been found to be less toxic than chlorinated analogs, EPA believes that the toxicity of HFPO is likely to be less than that of epichlorohydrin and that control of HFPO based on levels established for epichlorohydrin would provide a correspondingly greater degree of protection against risk from HFPO. In conjunction with the adoption of exposure controls by current manufacturers and processors of HFPO, EPA also would consider the need to promulgate a significant new use rule under section 5(a)(2) of TSCA to ensure adequate control of exposures to HFPO from any future expansion in the production or uses of this chemical substance. EPA requests comments on this alternative to testing of HFPO.

2. EPA is proposing that mutagenicity testing be performed for HFPO. The proposed mutagenicity testing is divided into two tiered schemes—chromosomal aberrations and gene mutatution. To avoid delays in performing the tiered testing, EPA is proposing that as single manufacturer or processor perform all the tiered tests in the chromosomal aberrations scheme and that a single manufacturer or processor perform all the tiered tests in the gene mutation scheme. In addition, EPA is proposing that the manufacturer or processor that indicates its intent to perform the tests in one of these schemes must submit protocols for all of the tiered tests in the scheme at the time it submits its study plan. EPA has chosen this approach to avoid delays in performing the tiered testing under the two-phase rulemaking process.

As an alternative, EPA could allow manufacturers and processors to submit protocols for only the tests in the first two tiers at the time they submit their study plans. If testing were required in the third tier, EPA could require submission of the protocol for the third tier test later and conduct an expedited phase II rulemaking for that test. EPA solicits comments on the these approaches to submission of protocols for tiered testing.

III. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for test rules go through a Level I analysis. This consists of evaluating each chemical substance or chemical group on four principal market characteristics: (1) demand sensitivity, (2) cost characteristics, (3) industry structure and (4) market expectations. The results of the Level I analysis, along with the consideration of the costs of the required tests indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for that chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted. This Level II analysis attempts to predict more precisely the magnitude of the expected impact.

Total testing costs for the proposed rule for HFPO are estimated to range from $318,000 to $960,000. The Level I economic analysis suggests that there is some potential for adverse economic impact as a result of these test costs, however, based on present analysis, the magnitude of the impact is not projected to be significant.

IV. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82-140773).

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

V. Environmental Impact Statement

EPA is not required to prepare Environmental Impact Statements (EISs), under the National Environmental Policy Act (NEPA), 41 U.S.C. 4321, for test rules. EPA has determined that voluntary preparation of an EIS is not appropriate for regulations under section 4 of TSCA. See the preamble to the Agency's rules for compliance with NEPA published in the **Federal Register** of November 6, 1979 (44 FR 64174).

VI. Guidelines And Study Plans

The following guidelines and/or study plans cited in this proposed test rulemaking are available from the: National Technical Information Service (NTIS), 5258 Port Royal Road, Springfield, VA 22161, (703-487-4650).

NTIS Publication No.	Title	Price
PB 82-232964	TSCA Guidelines—Health Effects.	$40.00
PB 82-232982	TSCA Guidelines—Environmental Effects.	60.00
PB 82-233006	TSCA Guidelines—Chemical Fate.	40.00
AD 250 504 (PB 83-153918)	Pesticide Assessment Guidelines.	11.50

VII. Public Meetings

If persons indicate to EPA that they wish to present comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting on March 14, 1984 in Washington, D.C. Persons who wish to present comments at the meeting should call the TSCA Assistance Office (TAO); Toll Free: (800-424-9065); In Washington, D.C.: (554-1404); Outside the U.S.A. (Operator 202-554-1404), by February 13, 1984. The meeting will not be held if members of the public do not indicate that they wish to make oral presentations. This meeting is scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to check whether the meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VIII. Rulemaking Record

EPA has established a record for this rulemaking, docket number [OPTS-42044]. This record includes basic

information considered by the Agency in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

The Record includes the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of proposed rulemaking on HFPO.

(b) Notice containing the ITC designation of halogenated alkyl epoxides to the Priority List.

(c) Notices relating to EPA's health effects test guidelines and GLP standards.

(d) Notice of proposed rulemaking on exemption policy and procedures.

(e) Notice of final rule on reimbursement policy and procedures.

(2) Support Documents: consisting of:

(a) HFPO technical support document.

(b) HFPO economic analysis.

(3) Minutes of informal meetings.

(4) Communications before proposal consisting of:

(a) Written public and intra- or interagency memoranda and comments.

(b) Telephone conversations.

(c) Meetings.

(d) Reports-published and unpublished factual materials, including contractors' reports.

(5) Study on the availability of test facilities and personnel (Chemical Testing Industry: Profile of Toxicological Testing).

Confidential business information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted is available for inspection in the OPTS Reading Room, Rm. E-107, 401 M St. SW., Washington, D.C. from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays.

IX. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the actual cost of all the proposed testing for HFPO is $318,000 to $960,000 or less that $1 million over the testing and reimbursement period. Second, the cost of the testing is not likely to result in a major increase in users' costs or prices. Finally, based on our present analysis, EPA does not believe that there will be a significant adverse effect as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments, will be include in the rulemaking record.

X. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.* Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They will not perform testing themselves, or will not participate in the organization of the testing effort; (2) they will experience only very minor costs in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

XI. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

(Sec. 4, Pub. L. 94-469, 90 Stat. 2003; [15 U.S.C. 2061])

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 799—[AMENDED]

Therefore, it is proposed that a new § 799.2150 be added to Subpart B of proposed Part 799 to read as follows:

§ 799.2150 Hexafluoropropylene oxide.

(a) *Identification of test substance.* (1) Hexafluoropropylene oxide (CAS No. 428-59-1) (hereinafter "HFPO") shall be tested in accordance with this section.

(2) HFPO of at least 99 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests and submit data.* (1) All persons who manufacture or process HFPO from the effective date of this section (30 days from the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period shall submit letters of intent to test, exemption applications, and study plans and shall conduct tests and submit data as specified in paragraphs (c), (d), (e), (h), (j), and (k) of this section.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from study plan submission and testing requirements. Any such application shall be in accordance with paragraph (h) of this section.

(c) *Submission of notice of intent to test or exemption application.* (1) No later than 30 days after the effective date of this section, each person manufacturing HFPO as of the effective date of this section must, for each test set required by paragraph (j) (1), (2), (3), and (4) of this section, either nofity EPA by letter of its intent to perform the test set or submit an application for an exemption from the study plan submission and testing requirements for the test set.

(2) If, by the date specified in paragraph (c)(1) of this section, no manufacturer of HFPO has notified EPA of its intent to perform testing for a test set required by paragraph (j) of this section, EPA will publish a notice in the **Federal Register** of this fact specifying the test sets for which no notice of intent has been submitted. No later than 30 days after publication of such a notice, each person processing HFPO as of the effective date of this section must, for each test set specified in the **Federal Register** notice, either notify EPA by letter of its intent to perform the test set or submit an application for an exemption from the study plan submission and testing requirements for the test set.

(3) Any person not manufacturing HFPO as of the effective date of this section who, before the end of the reimbursement period, manufactures HFPO must comply with the requirements of paragraphs (c)(1) and (d)(1) of this section. For purposes of this paragraph (c)(3), the manufacturer must submit the notice of intent to test or exemption application required by paragraph (c)(1) of this section by the date manufacture begins and must submit any purposed study plan required by paragraph (d)(1) of this section within 60 days of the date manufacture begins.

(4) If a **Federal Register** notice has been published under paragraphs (c)(2) or (d)(4) of this section, any person not processing HFPO as of the effective date of this section who, before the end of the reimbursement period, processes HFPO must comply with the requirements of paragraphs (c)(2) and (d)(2) of this section. For purposes of this paragraph

(c)(4), the processor must submit the notice of intent to test or exemption application required by paragraph (c)(2) of this section by the date processing begins and must submit any proposed study plan required by paragraph (d)(2) of this section within 60 days of the date processing begins.

(5) Any manufacturer or processor of HFPO, which has notified EPA under paragraph (c)(1), (2), (3), or (4) of this section of its intent to perform testing for a test set required by paragraph (j) of this section, must submit a proposed study plan for the test set as required in paragraph (d) of this section and must perform that test set in accordance with the test standards in paragraph (k) of this section.

(d) *Submission of proposed study plans.* (1) Manufacturers of HFPO which notify EPA under paragraph (c)(1) of this section that they intend to perform a test set must submit a proposed study plan for the test set in accordance with paragraph (e) of this section no later than 90 days after the effective date of this section. Manufacturers may jointly submit a single proposed study plan if they plan to sponsor or perform the test set jointly. Any manfacturer which, having notified EPA of its intent to perform a test set, fails to submit a proposed study plan for that test set will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(2) Processors of HFPO which notify EPA under paragraph (c)(2) of this section that they intend to perform a test set must submit a proposed study plan for the test set in accordance with paragraph (e) of this section no later than 90 days after the publication of the notice specified in paragraph (c)(2) of this section. Processors may jointly submit a single proposed study plan if they plan to sponsor or perform the test set jointly. Any processor which, having notified EPA of its intent to perform a test set, fails to submit a proposed study plan for that test set will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(3) If EPA determines in accordance with paragraph (f)(1)(i) of this section that a proposed study plan is incomplete and the manufacturer or processor has not, after notice from EPA, submitted appropriate information to make the study plan complete within 15 days, the manufacturer or processor will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(4) If either: (i) By the date specified in paragraph (d)(1) of this section a manufacturer of HFPO, which notified EPA of its intent to perform a test set, has failed to submit a proposed study plan for that test set, or

(ii) a proposed study plan submitted under paragraph (d)(1) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the manufacturer has not submitted appropriate information to make the study plan complete within 15 days, EPA will publish a notice in the **Federal Register** of this fact specifying the test set. The requirement of paragraphs (c)(2) and (d)(2) of this section for processors to submit letters of intent to perform testing, applications for exemption and proposed study plans will apply.

(5) If either: (i) by the date specified in paragraph (c)(2) of this section no processor of HFPO has notified EPA of its intent to perform testing for any test set identified in a **Federal Register** notice published under paragraph (c)(2) or (d)(4) of this section,

(ii) by the date specified in paragraph (d)(2) of this section any processor of HFPO, which notified EPA of its intent to perform a test, has failed to submit a proposed study plan for that test, or

(iii) a proposed study plan submitted under paragraph (d)(2) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the processor has not submitted appropriate information to make the study plan complete within 15 days, all applications for exemption from the requirements to submit study plans and to perform tests for the specific test set involved will automatically be denied. EPA will notify each manufacturer and processor of HFPO, which applied for an exemption for the specific test set involved, of this automatic denial either by letter or by notice in the **Federal Register.** Each manufacturer or processor of HFPO for whom an exemption application has been automatically denied will be in violation of this section 30 days from the time that it receives the notice letter or 30 days from the time that the notice is published in the **Federal Register,** whichever comes first. The violation will continue until a manufacturer or processor of HFPO submits a proposed study plan for each test set involved.

(6) Any manufacturer or processor of HFPO may submit a proposed study plan for any test set required by this section at any time, regardless of whether the manufacturer or processor previously submitted an application for exemption from testing for that test set.

(e) *Content of study plans.* (1) All study plans are required to contain the following information:

(i) A citation to this section and the specific test set covered by the study plan.

(ii) (A) the names and addresses of the test set sponsors.

(B) The names, addresses, and telephone numbers of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(C) The name, address, and telephone number of the appropriate individual for oral and written communications with EPA.

(D) *(1)* The name and address of the testing facility and the names, addresses, and telephone numbers of the testing facility's administrative officials and project manager(s) responsible for this testing.

(2) Brief summaries of the training and experience of each professional involved in the study, including study director, veterinarian(s), toxicologist(s), pathologist(s) and pathology assistants.

(iii) Identity and data on the chemical substance being tested, including appropriate physical constants, spectral data, chemical analysis, and stability under test and storage conditions.

(iv) Study protocol, including rational for: species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; a description of diet to be used and its source, including nutrients and contaminants and their concentrations; for *in vitro* test systems, a description of culture medium and its source; and a summary of expected spontaneous chronic diseases (including tumors), genealogy, and life span.

(v) Schedule for initiation and completion of major phases of long-term tests; schedule for submission of interim progress and final reports to EPA.

(2) Information specified under paragraph (e)(1)(ii)(D) of this section is not required in proposed study plans if the information is not available at the time of submission; however, the formation must be submitted before the initiation of testing.

(f) *Review and adoption of study plans.* (1) Upon receipt of a proposed study plan, EPA will review the study plan to determine whether it complies with paragraph (e) of this section.

(i) If EPA determines that the proposed study plan does not comply with paragraph (e) of this section, EPA will notify the submitter that the submission is incomplete and will identify the deficiencies and the steps necessary to complete the submission. The submitter will have 15 days from the day it receives this notice to submit appropriate information to make the study plan complete. If the submitter fails to provide appropriate information to complete the study plan within this

time, the submitter will have been in violation of this section as if no study plan had been submitted.

(ii) If EPA determines the proposed study plan complies with paragraph (e) of this section, EPA will publish a notice in the **Federal Register** requesting comments on the ability of the study plan to ensure that data from the test set will be reliable and adequate. EPA will provide a 45-day comment period and will provide an opportunity for an oral presentation upon request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or from public comments that further comment is warranted.

(2) After receiving and considering public comment, EPA will adopt the study plan, including time deadlines and reporting schedules, as proposed or as modified in response to EPA review and public comments, as test standards for the testing of HFPO in paragraph (k) of this section.

(g) *Modification of study plans during conduct of study*—(1) *Application.* Any test set sponsor who wishes to modify the adopted study plan for any test set required under this section must submit an application in accordance with this paragraph. Application for modification shall be made in writing to the Chief, Test Rules Development Branch, Office of Toxic Substances, or by phone with written confirmation to follow as soon as feasible. Applications must include appropriate explanation of why the modification is necessary.

(2) *Adoption.* To the extent feasible, EPA will seek public comment on all substantive changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications. However, EPA will act on the requested modification without seeking public comment if either: (i) EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy or validity of an ongoing study, or

(ii) if EPA determines that a modification clearly does not pose any substantive issues. EPA will notify the sponsor of EPA's approval or disapproval. When EPA approves a modification, it will publish a notice in the **Federal Register** indicating that the study plan has been modified.

(h) *Exemption applications.* (1) Any manufacturer or processor of HFPO may submit an application to EPA for an exemption from submitting proposed study plans for and from performing any or all of the test sets specified in paragraph (j) of this section. The application must include the name and address of the manufacturer or processor and must identify the specific requirements of this section from which the exemption is sought.

(2) No manufacturer or processor of HFPO will be in violation of the requirement to perform a specific test set under paragraph (j) of this section if it has submitted a timely application for an exemption for that test set and the application has not been denied by EPA.

(3) EPA will conditionally grant any requested exemption for a specific test set required by paragraph (j) of this section if EPA has received a complete proposed study plan for that test set in accordance with paragraph (e) of this section and has adopted the study plan in accordance with paragraph (f)(2) of this section.

(4) EPA will deny any exemption for a specific test set in paragraph (j) of this section if the test set sponsor fails to perform the test set or to submit data as required in the test standards adopted under paragraph (k) of this section.

(5) If manufacturers of HFPO perform all the test sets required by paragraph (j) of this section, processors of HFPO will automatically be granted an exemption from the study plan submission and testing requirements of this section without the need to file an application for exemption.

(i) *Test results.* Except as set forth in paragraph (k) of this section, a positive or negative test result in any of the health effects tests enumerated in paragraph (j) of this section is defined as specified in the TSCA Health Effects Test Guidelines published by the National Technical Information Service (NTIS) under publication number PB 82-232984.

(j) *Health Effects Testing*—(1) *Mutagenic Effects—Chromosomal aberrations*—(i) *Required testing.* (A) An *in vitro* cytogenetics test shall be conducted with HFPO.

(B) An *in vivo* cytogenetics test shall be conducted for HFPO if the *in vitro* cytogenetics tests conducted pursuant to paragraph (j)(1)(i) (A) of this section produces a netative result.

(C) A dominant lethal assay shall be conducted for HFPO if either the *in vitro* or *in vivo* cytogenetics test conducted pursuant to paragraph (j) (1) (i) (A) or (B) of this section produces a positive result.

(D) A heritable translocation assay shall be conducted for HFPO if the dominant lethal assay conducted pursuant to paragraph (j)(1)(i) (C) of this section produces a positive result.

(ii) *Study plans.* For guidance in preparing study plans the TSCA Health Effects Guidelines for Chromosomal Effects, published by NTIS (PB 82-232984), should be consulted. Additional guidance may be obtained from the Pesticide Assessment Guidelines, published by NTIS (PB 83-153916).

(2) *Mutagenic effects—Gene mutations—(1) Required testing.* (A) A *Salmonella typhimurium* mammilian microsomal reverse mutation assay (hereinafter "Ames assay") shall be conducted for HFPO.

(B) A gene mutation in somatic cells assay shall be conducted with HFPO if the Ames assay conducted pursuant to paragraph (j)(2)(i) (A) of this section produces a negative result.

(C) A sex-linked recessive lethal test in *Drosophila melanogaster* shall be conducted for HFPO if either the Ames assay of the gene mutation in somatic cells assay conducted pursuant to paragraph (j)(2)(i)(A) or (B) of this section produces a positive result.

(D) A mouse specific locus test shall be conducted for HFPO if the sex-linked recessive lethal test in *Drosphila melanogaster* conducted pusuant to paragraph (j)(2)(i) (C) of this section produces a positive result.

(ii) *Study plans.* For guidance in preparing study plans the TSCA Health Effects Guidelines for Mutagenicity, published by NTIS (PB 82-232984), should be consulted. Additonal guidance may be obtained from the Pesticide Assessment Guidelines, published by NTIS (PB 83-153916).

(3) *Oncogenicity*—(1) *Required testing.* A 2-year oncongenicity bioassay shall be conducted with HFPO.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Health Effects Guidelines for Chronic Exposure/Oncogenicity, published by the NTIS (PB 82-232984), should be consulted. Additional guidance may be obtained from the Organization for Economic Cooperation and Development (OECD) Test Guidelines for Health Effects as adopted by the OECD Council on May 12, 1981, and the Pesticide Assessment Guidelines, published by NTIS (PB 83-153916).

(4) *Reproductive effects*—(i) *Required testing.* A 2-generation reproductive effects test shall be conducted with HFPO.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Health Effects Test guidelines for Reproduction/Fertility Effects published by NTIS (PB 82-232984), should be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Health Effects as adopted by the OECD Council on May 12, 1981, and the Pesticide Assessment Guidelines, published by NTIS (PB 83-153916).

(k) *Test standards.* (1) Sponsors and testing facilities must adhere to the EPA Good Laboratory Practice Regulations in Part 792 of this chapter.

(2) [Reserved]

(l) *Enforcement.* (1) If a manufacturer of processor, which notified EPA under paragraph (c)(1), (2), (3) or (4) of this section of its intent to perform testing for a test set required by paragrpah (j) of this section, fails to perform the test set in accordance with the test standards in paragraph (k) of this section, that failure will be a violation of this section.

(2) EPA will publish a notice in the Federal Register to inform all manufacturers and processors that all exemptions for performance of that test set will be denied unless, within 30 days of the publication of the notice, a manufacturer or processor of HFPO notifies EPA by letter that it intends to perform that test set in accordance with the test standards in paragraph (k) of this section.

(3) Any person who fails or refuses to comply with any aspect of this section is in violation of section 15 of the Act.

(m) *Availability.* The TSCA and FIFRA guidelines for the various study plans are available from the National Technical Information Service (NTIS). Address and telephone number: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703–487–4650).

[FR Doc. 83-34649 Filed 12-29-83; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42045 TSH-FRL 2465-1]

Halogenated Alkyl Epoxides Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee recommended that EPA consider requiring health effects testing of halogenated alkyl epoxides under section 4 of the Toxic Substances Control Act (TSCA). In a separate notice in this issue of the **Federal Register**, EPA is proposing testing of hexafluoropropylene oxide, one member of the category of halogenated alkyl epoxides. This notice describes EPA's decision not to initiate rulemaking at this time to require testing of other members of the category of halogenated alkyl epoxides.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M. St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated halogenated alkyl epoxides for priority consideration in its Second Report, published in the **Federal Register** of April 19, 1978 (43 FR 16684). The ITC defined the category of halogenated alkyl epoxides as "halogenated noncyclic aliphatic hydrocarbons with one or more epoxy functional groups." Seven specific compounds in this category were discussed in this ITC's report: 1-chloro-2,3-epoxypropane (epichlorohydrin); 1,1,1-trichloro-2,3-epoxypropane (TCPO); 1-bromo-2,3-epoxybutane (epibromohydrin or EBH); 1,4-dichloro-2,3-epoxybutane (DCBO); 1,1,1-trichloro-3,4-epoxybutane (TCBO); tetrafluroethylene oxide (TFEO); hexafluoropropylene oxide.

The ITC recommended that halogenated alkyl epoxides be considered for testing for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects. The ITC also recommended that epidemiology studies be considered. The ITC's recommendations for this chemical category were based on high production levels for one member of this chemical category (500 million pounds annually for epichlorohydrin), (2) a National Institute for Occupational Safety and Health (NIOSH) estimate that between 50,000 and 140,000 workers are exposed to epichlorohydrin annually, (3) expected increases in the use of other halogenated alkyl epoxides, and (4) limited studies on oncogenic, mutagenic, teratogenic, and other chronic effects of halogenated alkyl epoxides.

In a separate notice in today's **Federal Register**, EPA is proposing testing of hexafluoropropylene oxide, one member of the category of halogenated alkyl epoxides. This notice describes EPA's decision not to initiate rulemaking to require testing of other members of the category of halogenated alkyl epoxides at this time. In combination, these two notices provide EPA's response to the ITC's designation of halogenated alkyl epoxides for testing consideration as required by TSCA section 4(e).

II. Decision Not to Initiate Rulemaking

A. Epichlorohydrin

EPA has decided not to initiate rulemaking at this time to require health effects testing of epichlorohydrin under section 4 of TSCA for the reasons outlined below. (1) Recent bioassays demonstrate that epichlorohydrin is oncogenic in rats, and provide sufficient data to assess its oncogenic hazard. On the basis of these data, EPA has initiated an evaluation of the need to undertake regulatory activities to further control exposures to epichlorohydrin. (2) Existing data suggest that epichlorohydrin may cause mutagenic, neurotoxic and reproductive effects as well as certain other chronic effects (e.g., liver and kidney effects). These data further suggest that such effects are likely to be induced only at or above exposure levels (or doses) that would cause oncogenic effects. (3) EPA believes that defining an exposure level that is adequate for control of any unreasonable oncogenic risk should adequately protect against any unreasonable risks of the other health effects for which the ITC recommended testing. Thus, EPA believes that no information essential to potential regulatory activities would be gained through additional health effects testing at this time. (4) Available retrospective epidemiology studies on epichlorohydrin are generally flawed by multiple chemical exposures, short latency periods among the selected cohorts, or inappropriate selection of the exposure group. Because of difficulties in identifying a suitable cohort for epidemiology studies of epichlorohydrin, EPA believes that similar limitations would be encountered in any newly initiated studies. Additionally, EPA believes that the animal studies on epichlorohydrin are sufficient for any needed regulatory action, and that epidemiology studies are not likely to be necessary to support regulatory decisions on this particular chemical substance.

If, however, EPA finds at any time that the health effects data on epichlorohydrin are not sufficient for any needed regulatory action, or if it appears that epidemiology studies are necessary to support regulatory decisions on this chemical substance and a suitable cohort can be identified at that time, EPA will reconsider this decision not to initiate rulemaking to require health effects testing or epidemiology studies of epichlorohydrin.

1. *Release and exposure.* An estimated 400 million pounds of epichlorohydrin are produced annually (Ref. 45). Actual production figures have been claimed confidential by the manufacturers. The volume of epichlorohydrin imported in 1981 was 3.0 million pounds (Ref. 6). In 1981, approximately 55 percent of the U.S. supply of epichlorohydrin was used as an intermediate in the production of epoxy resins, 25 percent in the production of synthetic glycerin, 10 percent in miscellaneous uses, and 10 percent was exported (Ref. 45). Miscellaneous uses of epichlorohydrin include use in the manufacture of elastomers, glycidyl ethers, modified epoxy resins, paper sizing agents, inks, textile additives, ion exchange resins, and surface active agents. Epichlorohydrin is also used as a stabilizer in materials that contain chlorine such as chlorinated rubbers (Refs. 32, 35, and 63).

Human exposure to epichlorohydrin appears to be principally in the workplace. NIOSH most recently estimated that 50,000 workers are potentially exposed to epichlorohydrin (Ref. 49). This estimate is an extrapolation based on a 1972-1974 survey of workers and industries using epichlorohydrin.

The current Occupational Safety and Health Administration (OSHA) standard for occupational exposure to epichlorohydrin is 5 ppm (19 mg/m^3) as an 8-hour time weighted average (TWA) (29 CFR 1910.1000). In 1976, NIOSH recommended an occupational exposure

limit of 0.5 ppm (2 mg/m³) as a 10-hour TWA for a 40-hour week and a ceiling limit of 5 ppm (Ref. 49). NIOSH arrived at this recommendation after concluding that risks from exposure to epichlorohydrin may include carcinogenesis, mutagenesis, and sterility. In 1980, the American Conference of Government Industrial Hygienists (ACGIH) lowered their recommended threshold limit value (TLV) for epichlorohydrin from 5 ppm to 2 ppm (8 mg/m³, with a 5 ppm short term exposure limit (STEL) (Ref. 3).

Personal exposure monitoring of workers from an epoxy resin producing unit, a glycerin producing unit, and an epichlorohydrin producing unit show concentrations of epichlorohydrin as high as 15 ppm (grab sample), 4.69 ppm (7-hour TWA), and 2.1 ppm (8-hour TWA), respectively (Refs. 49 and 55). Concentrations of epichlorohydrin in each unit averaged less than 1 ppm (Refs. 49 and 55).

Based on emission factors reported by manufacturers of epichlorohydrin, Scientific Applications Inc. (SAI), a private contractor, estimated that 146,600 pounds of epichlorohydrin were released into the atmosphere from production facilities in 1978 (Ref. 60). In 1974, one manufacturer of epichlorohydrin estimated that release of epichlorohydrin from production facilities was less than 18,000 pounds per year (Ref. 68). Information submitted under section 8(a) of TSCA on releases of epichlorohydrin in 1981 has been claimed confidential by the manufacturers. Total atmospheric emissions from all production and uses of epichlorohydrin in 1978 were estimated by SAI to be 480,000 pounds (Ref. 60). Using U.S. Census Bureau files, SAI estimated that 10.6 million people live within 12.5 miles of epichlorohydrin production and use facilities (Ref. 60). Based on estimated emission rates, chemical properties, and dispersion modelling, SAI estimated that these persons may be exposed to epichlorohydrin concentrations ranging from 0.0001 ug/m³ (0.000026 ppb) to 50 ug/m³ (13 ppb) due to these atmospheric releases (Ref. 60).

The manufacturers of epichlorohydrin reported that the heavy ends (liquid wastes) from production facilities are recovered or thermally degraded, and that no epichlorohydrin is discharged (Ref. 68). Epichlorohydrin is regulated under the Resource Conservation and Recovery Act (RCRA) as a hazardous waste on the basis of its potential hazard to human health (40 CFR 261.10).

Epichlorohydrin was reported twice in effluent from an unspecified chemical plant in Louisville, Kentucky (Ref. 62) and was detected at 3 ppm in the effluent from the American Aniline and Extract Co., Calvert City, Kentucky (Ref. 21). No reports on epichlorohydrin were found in STORET, a data base that contains water quality information for the majority of the streams in the United States.

On the basis of available data, and because of the reactivity of the epoxide ring, epichlorohydrin is unlikely to be sufficiently persistent in the environment to result in significant general population or environmental exposure. The available data indicate that: (a) Epichlorohydrin is volatile and, under simulated atmospheric smog conditions, reportedly decomposes with a half-life of 16 hours (Ref. 15); (b) it is water soluble, with dissolved epichlorohydrin having a hydrolytic half-life of 2–8 days (Refs. 8 and 59); (c) an estimated log P of 0.26 suggests that epichlorohydrin has a low potential for uptake and bioconcentration from the aquatic environment (Ref. 32); (d) modelling by Falco et al. (Ref. 23) indicates a low potential for adsorption of epichlorohydrin onto soil and sediments; and (e) studies by Castro and Bartnicki (Ref. 11) indicate that epihalohydrins are generally susceptible to microbially-mediated hydrolysis (or biodegradation) in the soil.

The potential exists for consumer exposure to epichlorohydrin vapors and leachates when epoxy resins are used as adhesives, coatings, and plastics. Although epichlorohydrin theoretically is not present after an epoxy resin is formed, it is possible that some epichlorohydrin remains as a contaminant. No U.S. studies have been found that present data on epichlorohydrin exposures resulting from the use of epoxy resins. However, several foreign studies report vapor concentrations of 0.23–12 mg/m³ (0.06–3 ppm) epichlorohydrin from epoxy-based adhesives and plastics (Refs. 20, 38 and 57). Epoxy resins also are used as coatings for articles intended for use in packaging food. This use is regulated by the Food and Drug Administration (21 CFR 175, 176, 177, 178).

2. *Health effects*—a. *Carcinogenicity.* Epichlorohydrin induced squamous cell carcinomas of the nasal cavity in Sprague-Dawley rats inhaling either 100 ppm, 6 hours/day for 30 days followed by lifetime observation or 30 ppm, 6 hours/day, 5 days/week for life (Ref. 41); no nasal carcinomas were produced by 6 hours/day, 5 days/week lifetime exposure to 10 ppm epichlorohydrin. Epichlorohydrin induced squamous cell hyperplasia, papillomas, and carcinomas in the forestomach in Wistar rats when administered at 750 or 1,500 ppm in drinking water for 81 weeks (Ref. 34); the total amount of epichlorohydrin ingested was 8.9 g and 15.1 g, respectively. In the 1,500 ppm dosage group, squamous cell carcinomas of the oral cavity were also reported. Hyperplasia was found at the 375 ppm epichlorohydrin dose level (5.0 g total ingested epichlorohydrin). Another study reported a dose-related incidence of squamous cell carcinomas in the forestomach in Wistar rats after lifetime exposure to epichlorohydrin by gavage at 2 or 10 mg/kg/day, 5 days/week (REf. 72). In mice, epichlorohydrin was a weak initiator in a two-stage skin carcinogenesis assay; induced local sarcomas and one malignant tumor, other than those at the injection site, following subcutaneous injections of 1.0 mg/week for life; and showed no carcinogenic effect with the mouse skin painting technique or by intraperitoneal injection (Ref. 70). EPA has concluded that the data from these studies are sufficient to characterize the oncogenic potential of epichlorohydrin and, therefore, further oncogenicity testing is not necessary.

b. *Mutagenicity.* There are extensive data on the mutagenicity of epichlorohydrin. The data show that epichlorohydrin induces gene mutations and chromosomal aberrations *in vitro* and *in vivo*. Epichlorohydrin has been shown to be a direct-acting mutagen in several bacteria and yeast (*E. coli, S. typhimurium, K. pneumoniae, S. cerevisiae*), primarily inducing base-pair substitutions (Refs. 7, 42, 65, 69 and 75). Epichlorohydrin induced reverse mutations in a purple adenineless mutant of *Neurospora crassa* (ref. 37), eceriferum mutants in barley (Ref. 43), and sex-linked recessive lethal mutations in *Drosophila* (Refs. 36 and 58).

Epichlorohydrin induced chromosome aberrations in human lymphocytes *in vitro* Refs. 10, 39 and 76) and mouse bone marrow cells *in vivo* (REf. 65). An increase chromosome breaks and exchanges was observed in lymphocytes from epichlorohydrin-exposed workers in several studies (Refs. 40, 56, 67); no differences in the incidence of chromosomal aberrations in exposed and unexposed workers were reported in another study (Ref. 17). In dominant lethal assays in mice, epichlorohydrin was negative in two studies (Refs. 27 and 65 and positive in another (Ref. 66).

Epichlorohydrin was one of the substances tested in the International Collaborative Program on Short-term Tests for Carcinogenicity. Epichlorohydrin was almost universally found to be mutagenic in the *in vitro* test

systems. This included forward and reverse mutations in bacteria, the Rec and Pol assays in bacteria, mutation and recombinational end-points in yeast, unscheduled DNA synthesis in cultured fibroblasts, and gene mutations, sister-chromatid exchanges, and chromosome aberrations in mammalian cells (Ref. 13).

EPA has concluded that the data from these studies are sufficient to indicate that epichlorohydrin is mutagenic to somatic cells. The results of the dominant lethal assay in mice raise concern that epichlorohydrin also has the potential to induce mutations in germ line cells.

c. *Teratogenicity.* Two studies have addressed the teratogenic potential of epichlorohydrin. In rats and rabbits exposed by inhalation to 0, 2.5 or 25 ppm epichlorohydrin for 7 hours/day on days 6 through 15 of gestation for rats and on days 6 through 18 gestation for rabbits, no embryotoxic or teratogenic effects were demonstrated (Ref. 18). Slight maternal toxicity was seen at the 25 ppm dose level. In a second study, epichlorohydrin administered by gastric intubation to rats at 40, 80, or 160 mg/kg/day and to mice at 80, 120, or 160 mg/kg/day on days 6 through 15 of gestation did not demonstrate teratogenic effects (Ref. 46). The 160 mg/kg/day dose in the rat was maternally toxic but not fetotoxic. The 120 and 160 mg/kg/day levels in the mice were maternally toxic and fetotoxic. EPA has concluded that these studies are sufficient to characterize the teratogenic potential of epichlorohydrin and, therefore, additional teratogenicity testing is not necessary.

d. *Reproductive effects.* Reproductive studies demonstrate that epichlorohydrin produces infertility in male rats. Oral administration of 15 mg/kg/day epichlorohydrin produced infertility in male Sprague-Dawley rats within 7 days; the effect was found to be reversible (Ref. 29). Reduced fertility was reported in male Wistar rats given 5 daily oral doses of 20 mg/kg or 50 mg/kg; a single dose of 100 mg/kg produced permanent sterility (Ref. 12). Histologic examination revealed retention cysts in the ductuli efferentes and proximal caput of the testis in the sterile animals.

In another study, male rabbits and male and female rats were exposed to 0, 5, 25 or 50 ppm epichlorohydrin vapor for 6 hr/day for 10 weeks (Ref. 31). Transient infertility was seen in treated male rats at 50 ppm and pre-implantation loss was observed in nontreated female rats mated with males treated at 25 ppm; no effects were noted at 5 ppm. Reversal of these effects was observed 14 days post-exposure. No reproductive effects were observed in the treated male rabbits or treated female rats. EPA has concluded that these data are adequate to indicate that epichlorohydrin causes reproductive effects in mammals. The number of data points from these studies is limited, however, and will only allow a rough quantitative risk assessment. EPA has concluded, however, that more testing to define more precisely the quantitative aspects of the reproductive effects risk is not necessary at this time because the existing data suggest that adverse reproductive effects are likely to be induced only at or above exposure levels that would cause oncogenic effects, that any regulatory action taken to control for unreasonable oncogenic risk will adequately protect against any unreasonable risk of adverse reproductive effects, and, thus, that no information essential to potential regulatory activities would be gained through additional reproductive effects testing at this time.

e. *Other chronic effects.* Several subchronic and chronic studies of epichlorohydrin have been reported. Rats and mice exposed to concentrations of 0, 5, 25, or 50 ppm epichlorohydrin for 6 hours/day, 5 days/week for a 90-day period exhibited toxic effects in the nasal turbinates, kidneys, adrenal glands, and epididymides of the testis at the 25 and 50 ppm concentrations when compared with controls (Ref. 16). No observed effects relative to controls were noted at 5 ppm. During testing for carcinogenicity, renal lesions were noted in rats inhaling 10 or 30 ppm epichlorohydrin for 6 hours/day, 5 days/week over their lifetimes or 100 ppm, 6 hours/day for 30 days (Ref. 41). Abnormalities of the lungs, blood vessels, kidney and brain were observed in rats exposed to 5.3 ppm epichlorohydrin for 24 hours/day for 98 days (Refs. 24 and 25). At 0.5 ppm, white blood cell counts were elevated; no adverse effects were observed at 0.05 ppm (Refs. 24 and 25). EPA concludes that the data are adequate to characterize the chronic toxicity, excluding neurotoxicity of epichlorohydrin.

With respect to neurotoxicity, most of the studies of epichlorohydrin do not note any substantive neurotoxic effects, although a single Russian study (Ref. 25) reports behavioral and neuropathological effects in rats after exposure to concentrations of 5.3 ppm, 24 hours/day for 98 days; the author further reported that the greatest toxic changes were found in the lungs and kidneys. Because the details of this study are scant, EPA believes these data can only be considered weakly suggestive and that the weight of the available evidence is not sufficient to indicate a neurotoxic hazard for epichlorohydrin, especially in light of other effects of concern for epichlorohydrin.

f. *Epidemiology.* Several epidemiological studies have been performed on workes exposed to epichlorohydrin in the U.S. Two mortality studies (Refs. 19 and 64) provide no evidence for a carcinogenic effect in humans from epichlorohydrin. However, one of the studies was complicated by multiple chemical exposures and in both studies, because of the fairly young ages of the cohorts (mean ages less than 40 years and 48 years), the latency periods may not have been long enough for carcinogenic effects to have developed.

Two studies investigating the effects of epichlorohydrin on the human male reproductive system also had shortcomings. The first study has several flaws: (1) The selection of the exposure group was inappropriate (persons with only one day of exposure occuring years in the past were included in the exposed group); (2) a large proportion of the exposed workers were unwilling to participate in the study; and (3) no information about the control population was provided (Ref. 48). In the second study, the timing of exposure relative to sampling was unclear, and the sample size was too small to provide unambiguous results (Ref. 73).

In three cytogenetic studies, an increase in chromosome breaks and exchanges was observed in lymphocytes from epichlorohydrin-exposed workers (Refs. 40, 56, and 67); no differences in the incidence of chromosome breaks and exchanges in exposed and unexposed workers were reported in a fourth cytogenetic study (Ref. 17).

Possible epidemiology followup studies for epichlorohydrin were considered. EPA concluded, however, that additional retrospective epidemiology studies on epichlorohydrin were not likely to provide useful data at this time. EPA believes that limitations among the available retrospective epidemiology studies on epichlorohydrin, including number of years since first exposure, percent participation in studies, number of persons in cohorts, and complications with multiple chemical exposures, would likely be encountered in newly initiated retrospective studies. In addition, EPA believes that the animal studies on epichlorohydrin are sufficient for any needed regulatory action and that epidemiology studies are not necessary to support regulatory

decisions on this particular chemical substance.

B. Other Halogenated Alkyl Epoxides

With the exception of hexafluoropropylene oxide, EPA also has decided not to initiate rulemaking at this time to require testing of other members of this category of halogenated alkyl epoxides for health effects under section 4 of TSCA because there is not sufficient production or exposure to make section 4 findings for these chemical substances. In a separate notice in this issue of the **Federal Register**, EPA is proposing testing of hexafluoropropylene oxide.

1. *Production.* The sole domestic producer of epibromohydrin in the U.S. produces very small amounts of EBH (0–25 pounds annually) on a custom basis for sale to research chemical suppliers (Ref. 26). The only current use of epibromohydrin appears to be as a laboratory research reagent (Ref. 66). Great Lakes Chemical Corp., listed as a manufacturer of EBH on the 1977 TSCA Inventory, produced their last batch of EBH in 1975 and ceased marketing the chemical in 1980 (Ref. 28). Great Lakes used EBH at one time in the production of a nematocide product (Ref. 32).

1,1,1-Trichloro-2,3-epoxypropane is produced in small amounts for distribution as a laboratory research chemical (Ref. 1). TCPO is a potent, noncompetitive inhibitor of hepatic expoxide hydrases, inducible enzymes that catalyze the inactivation of some carcinogenic and cytotoxic metabolites (Ref. 1). TCPO can also stimulate the binding of benzo(a)pyrene to DNA (Refs. 2 and 61).

1,1,1-Tricholoro-3,4-epoxybutane was produced by Olin Chemical Corp. (Ref. 54). In May 1982, Olin ceased production of TCBO and has no plans to resume production. TCBO had been used by Olin as a chemical intermediate. Potential uses of TCBO are as an intermediate in the preparation of urethanes, epoxy resins, esters, phenolic resins, neutralizing agents, insecticides, fungicides, nematocides, glycols, plasticizers, textiles, vulcanized graft polymer rubbers, solvents, and polyurethane and epoxy catalysts (Ref. 54).

No information has been found on the domestic manufacture or importation of 1,4-dichloro-2,3-epoxybutane or tetrafluoroethylene epoxide.

In addition to the seven haloalkyl epoxides identified by the ITC, several other category members have been identified from literature reports (Refs. 35 and 71). However, there is no information which suggests that these chemicals are commercially manufactured or imported in the U.S. at this time.

2. *Health effects.* Health effects information on halogenated alkyl epoxides, other than epichlorohydrin, is limited. The information indicates, however, that other halogenated alkyl epoxides may produce toxic effects similar to epichlorohydrin.

TCPO enhanced the tumor-producing ability of 3-methylholanthrene and benzo(a)pyrene and decreased the latency period for the development of tumors in mice (Ref. 5). Cis- and trans-1-chloropropene oxide and cis- and trans-1,3-dichloropropene oxide induced squamous carcinomas of the skin following chronic skin application and local tumors, mostly fibrosarcomas, following repeated subcutaneous injection in mice (Ref. 71).

Gene mutation studies in *S. typhimurium*, *N. crassa*, and *E. coli* and host-mediated assays in mice indicate that EBH is mutagenic (Refs. 14, 37, and 75). In a dominant lethal assay in mice, EBH was negative (Ref. 22). TCPO and TCBO have been reported as mutagenic without metabolic activation in gene mutation tests in *S. typhimurium* and *S. cerevisiae* (Refs. 9, 27, 44, 51 and 75). TCPO induced chromosome aberrations and sister-chromatid exchanges in cultured human lymphocytes (Ref. 50). DCBO was slightly mutagenic in *S. typhimurium* (Ref. 4) and produced dose-related increases in recessive lethal mutations in *Drosophila* (Ref. 74).

TCPO caused an increase in the teratogenicity of diphenylhydantoin (DPH) in mice (Refs. 30 and 47). TCPO also caused an increase in the teratogenic activity of styrene and styrene oxide in chick embryos (Ref. 33). The authors also reported that TCPO administered alone did not exhibit significant teratogenic effects in these studies.

TCBO administered orally to rats at dose levels of 10, 30, 100, or 300 mg/kg/day on days 6 through 15 of gestation demonstrated no teratogenic or fetotoxic response at maternally nontoxic dose levels (Ref. 52). At 300 mg/kg/day, maternal and fetal toxicity occurred.

A 90-day rat study in which TCBO was administered by gavage at dosage levels of 30, 100, or 300 mg/kg/day, 7 days/week showed dose-related morphological changes in the liver and kidneys (Ref. 53). Lesions were seen among the livers of male rats receiving 100 and 300 mg/kg/day dose levels; the kidneys of male rats showed nephrosis and necrosis of the tubular epithelial cells at all treatment levels.

Although these data suggest that other halogenated alkyl epoxides may elicit toxic effects similar to those induced by epichlorohydrin, other identified members of this category, with the exception of hexafluoropropylene oxide, are currently produced only in research quantities or are not produced at all. Therefore, EPA believes that there is no basis at this time for finding that these chemical substances may present an unreasonable risk to health or the environmental and, thus, EPA is not initiating rulemaking at this time to require testing of these chemical substances. EPA is, however, considering options for follow-up activities concerning these chemical substances such as reporting of production and importation levels under a TSCA section 8(a) rule or reporting of significant new uses under a TSCA section 5(a)(2) rule.

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IV. Public Record

The EPA has established a public record for this testing decision, docket number [OPTS–42045], which includes:

(1) **Federal Register** notice containing the designation of halogenated alkyl epoxides to the Priority List and public comments thereon.

(2) Communications (public).

(a) Letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

(3) Published and unpublished data.

This record, which includes basic information considered by the Agency in developing this decision, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days in Rm. E–107, 401 M St. SW., Washington, D.C. 20460.

(Sec. 4, 90 Stat. 2003; [15 U.S.C. 2061])

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83–34451 Filed 12–29–83; 8:45 am]

BILLING CODE 34451–M

federal register

Friday
December 30, 1983

Part V

Department of Labor

Mine Safety and Health Administration

Fire Prevention and Control at Metal and Nonmetal Mines; Public Hearings

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, and 58

Fire Prevention and Control At Metal and Nonmetal Mines; Public Hearings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold public hearings on its proposal to revise existing safety standards for fire prevention and control at metal and nonmetal mines. The hearings will be held in Chicago, Illinois; Phoenix, Arizona; and Atlanta, Georgia, and are in response to requests from the public. Each hearing will cover the major issues raised by comments submitted in response to the proposed rule.

DATES: All requests to make oral presentations for the record should be submitted at least five days prior to each hearing date. Immediately before each hearing, any unalloted time will be made available to persons making late requests.

The public hearings will be held at the following locations on the dates indicated, beginning at 9:00 a.m.:

February 2, 1984; Chicago, Illinois;
February 7, 1984; Phoenix, Arizona; and
February 9, 1984; Atlanta, Georgia.

ADDRESSES: The hearings will be held at the following locations:

February 2, 1984: Chicago, Illinois. OSHA Training Institute; Room 6; 1555 Times Drive; Des Plaines, Illinois 60018.

February 7, 1984: Phoenix, Arizona. Federal Building and Courthouse; Room 8413; 230 North First Avenue; Phoenix, Arizona 85025.

February 9, 1984: Atlanta, Georgia. U.S. Department of Labor; Room 276—Seminar A; 1375 Peachtree Street, N.E.; Atlanta, Georgia 30367.

Send requests to make oral presentations to: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On October 4, 1983, MSHA published proposed revisions to its existing safety standards in 30 CFR Parts 55, 56, and 57 for fire prevention and control at metal and nonmetal mines (48 FR 45336). The written comment period for this proposed rule closed on December 5, 1983. In the comments filed to the proposed rule, MSHA received requests for public hearings.

The purpose of the public hearings is to receive relevant comment and respond to questions about the proposed rule. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions.

Each session will begin with an opening statement from MSHA. The public will then be given an opportunity to make oral presentations. During these presentations, the hearing panel will be available to answer relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Time will be made available at the end of the hearing for rebuttal statements. A verbatim transcript of each proceeding will be taken and made part of the rulemaking record. Copies of the hearing transcript will be available for review by the public.

MSHA will also accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until February 24, 1984.

Issues

Commenters requested clarification or revision of many specific provisions of the proposed rule. However, certain provisions of the rule, which are discussed in this notice, received extensive comment and raised important issues. MSHA will be specifically addressing these issues at the public hearings and particularly solicits comment on them in addition to other aspects of the proposed rule.

A. Major Electrical Installation

Many commenters stated that the proposed definition of "major electrical installation" was too broad and could encompass electrical installations that pose no significant fire hazard. This defined term is used in several standards, including §§ 58.4160, 58.4262, and 58.4463, which concern fire protection measures for underground installations. The commenters expressed concern that the proposed definition, which included any "assemblage of stationary electric equipment for the generation, transmission, distribution, or conversion of electric power," could lead to a misapplication to nonhazardous electrical installations and result in significant expenditures without any benefit to safety. Generally, commenters suggested that MSHA further restrict the definition to electrical assemblages that have a significant potential fire hazard.

B. Surface Storage of Flammable or Combustible Liquids

Several commenters requested that MSHA revise § 58.4531, which concerns surface storage of flammable or combustible liquids in buildings or rooms, to clearly distinguish between requirements for rooms and buildings designed for storage of flammable or combustible liquids and requirements for actual use of such liquids in other areas. Another commenter requested that MSHA specify that "well-ventilated" means that "at least one cubic foot per minute of exhaust per square foot of floor area, but not less than 150 CFM" is required. MSHA requests further comment on whether "well-ventilated" should be so defined.

C. Fire Extinguishers for Welding, Cutting, and Soldering

Commenters requested that MSHA allow more flexibility in the choice of fire extinguishers that could be used under § 58.6000 which addresses such activities as welding, cutting, and soldering. As proposed, this standard would not permit use of halogenated hydrocarbons as an extinguishing agent. In the preamble to the proposed rule, MSHA expressed concern that such agents could create toxicity problems in confined areas. However, commenters stated that liquified gas extinguishers using halogenated hydrocarbons are in many respects superior to dry-chemical extinguishers and are no more toxic. MSHA particularly requests further information concerning the toxicity of halogenated hydrocarbon fire extinguishing agents.

D. Ventilation Control in Underground Shaft Mines

MSHA received several comments on § 58.4760 which concerns ventilation control measures in underground shaft mines. Some commenters stated that any alternative to the present requirement for fire doors should be approved by an MSHA District Manager. Other commenters stated that the evacuation alternative should not be restricted to ten minutes, but rather focus on demonstrated safe evacuation

regardless of time. In addition, some commenters stated that a condition of control doors and fan reversal should be permitted.

E. Recordkeeping and Certification

Several commenters objected to recordkeeping provisions being replaced with certification provisions in § 58.4201, which concerns inspection of fire fighting equipment, and § 58.4361, which concerns underground evacuation instruction. Some commenters believed that certification would not allow proper evaluation of the safety program at a mine, while other commenters continue to believe that certification could imply that an activity must be done by a "certified person." However, in the preamble to the proposed rule MSHA clearly states that "certification," as used in these standards, would not require that an activity be done by a "certified person." Certification only means that the person performing the activity must certify that it has been done.

F. Organizational Combination of Parts 55, 56, and 57

Commenters representing sand, gravel, and crushed stone operators objected to the proposed reorganization of 30 CFR Parts 55, 56, and 57 into a single Part 58. They stated that the single part would not recognize the distinct terminology and work methods used by their operations.

G. Other Issues

MSHA will receive other comments or suggestions regarding any relevant issues in the proposed rule.

Dated: December 22, 1983.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 83-34432 Filed 12-28-83; 8:45 am]

BILLING CODE 4510-43-M

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