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Federal Register

Wednesday
August 1, 1984

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 205

Revocation of Approval of Petitions

Correction

In FR Doc. 84–19367 beginning on page 29566 in the issue of Monday, July 23, 1984, make the following correction.

§ 205.1 [Corrected]

On page 29567, second column, § 205.1(c)(3), third line, "office" should have read "officer".

BILLING CODE 1505-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Fidelity Bond and Insurance Coverage for Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) adopts revised regulations concerning fidelity bond and insurance coverage for Federal credit unions (FCUs). The Board has removed the requirement that all officials and employees have faithful performance of trust coverage. Such coverage is now required only of the financial officer of each FCU. The final rule changes the requirement that each FCU board of directors conduct a semiannual review of bond and insurance coverage to a requirement for an annual review. The final rule contains new schedules for minimum bond and insurance coverage and maximum deductibles. The final rule provides more discretion and flexibility to each FCU without jeopardizing their safety and soundness.

EFFECTIVE DATE: September 1, 1984.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, Director, or Hattie M. Ulan, Staff Attorney, Department of Legal Services, at the above address. Telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1984, the Board proposed a revised rule on Surety Bond and Insurance Coverage for Federal credit unions for public comment (see 49 FR 13048, 4/2/84). The Board proposed several changes from the existing rule, including a proposal to eliminate the required faithful performance coverage for all officials and employees, except for the financial officer. The other major changes proposed were a change in the requirement that each FCU board of directors conduct a semiannual review of bond and insurance coverage to a requirement for an annual review, and new schedules for minimum bond and insurance coverage and maximum deductibles. All of the major changes have been adopted in the final regulation, with some modification.

Nineteen comment letters were received on the proposal. Twelve were from FCUs, one from a state-chartered credit union, two from the national trade associations, two from credit union support organizations, one from a state credit union league, and one from an insurance underwriter.

Based on the comments and its further review and analysis, the Board has adopted a final rule. The regulation has been simplified and rewritten in plain English to make it easier to understand and use. All references to surety bond in the final rule have been changed to fidelity bond. Fidelity describes more accurately the type of coverage provided by the bond. Fidelity coverage generally refers to coverage where the insurer guarantees the personal honesty of the insured. The change from surety to fidelity does not have any effect on the coverage provided by the bond.

Analysis

This section first addresses the change in required faithful performance coverage. A section by section analysis of the final rule follows.

Faithful Performance Coverage

In the proposal, the Board suggested that the faithful performance coverage requirement be eliminated for FCU officials and employees other than the financial officer. Under the FCU Act, such coverage is required only of the financial Officer. The Board has adopted this change in the final regulation. All but two of the commenters specifically addressed the faithful performance issue. Ten commenters noted their approval of the change (some suggested modifications to it), six were opposed to the change, and one did not state a preference. The two commenters who did not address the faithful performance issue expressed general agreement with the overall proposal.

Those commenters supporting the faithful performance change noted that it would allow FCUs greater flexibility in balancing the risk of loss with cost of coverage, and expressed hope that premium costs would be reduced. It was noted that the reduction in the faithful performance requirement would bring credit union coverage more in line with that of other financial institutions. Several of the commenters noted that a credit union would have the choice of continuing with its faithful performance coverage of all employees and officials. The Board agrees with these comments. Also a reduction in faithful performance coverage requirement may attract insurance underwriters who are not currently writing credit union bonds. Thus, increased competition may serve to lower the price of the insurance coverage.

Some of the commenters in favor of the proposal suggested modifications including a regulatory definition of faithful performance, coverage of both the financial official and the chief executive officer and coverage of the *functions* of the financial officer, rather than coverage of one individual. The Board has decided not to incorporate any of these suggestions in the final rule. Since the statute requires coverage of the financial officer only, no further requirements will be imposed. As far as

defining faithful performance, this has already been done by the courts.

Those opposed to the reduction in faithful performance stated that such a reduction would increase risks to both individual credit unions and the National Credit Union Share Insurance Fund (NCUSIF). The Board recognizes a degree of increased risk to Federal credit unions and ultimately to the NCUSIF (if a credit union eventually liquidates due to losses caused by the lack of faithful performance of someone other than the financial officer). The nature of this risk must, however, be clearly understood. First, losses caused by the fraud or dishonesty of any individual will continue to be covered by the fidelity bond. Thus, a reduction in "faithful performance" coverage will in general only increase the risks to the FCU and the NCUSIF for losses caused by mismanagement or negligence. The Board believes it is precisely the role of the credit union's board of directors and the supervisory agency (NCUA in the case of an FCU) to prevent these losses, and that reserves and share insurance exist to protect the credit union members in those few cases when that role is not fulfilled. The burden of the risks of mismanagement (as compared to fraud and dishonesty) is better placed on a credit union's capital and the NCUSIF; the parties responsible for the safety of those funds (the FCU's board of directors and the NCUA Board) have the responsibility and the wherewithal to prevent unacceptable losses.

Section-by-Section Analysis

Section 701.20(a)—*Scope.* The present regulation does not contain a scope section. It was added in the proposal and is being made a part of the final rule to clearly describe what is covered by the regulation. The regulation only addresses fidelity bond coverage for losses caused by credit union employees and officials and general insurance coverage for losses caused by persons outside of the credit union (e.g., protection for losses due to theft, holdup or vandalism). Only two commenters mentioned the proposed scope section in their letters. Both were in favor of it. It is added, as proposed, to the final rule.

Section 701.20(b)—*Review of Coverage.* The present regulation requires the board of directors to conduct a semi-annual review of all insurance coverage. The proposal changed the requirement to an annual review. The Board has adopted the annual review section as proposed. Ten commenters addressed this issue and all were in favor of the proposed change. Several commenters noted that if risk variations occurred, interim reviews should be made. One commenter suggested that a specific time of year be set for the annual review in the regulation. The Board has decided not to impose such a restriction on credit unions. This is a decision left to the discretion of each FCU.

Section 701.20(c)—*Minimum Coverage; Approved Forms.* As discussed above, the Board has adopted the proposed change in faithful performance coverage. The final rule requires faithful performance coverage of only the financial officer of the FCU as defined in Article VIII, Section 5 of the Federal Credit Union Bylaws. The bond form approved as minimum coverage is Credit Union Blanket Bond Standard Form 23 plus Faithful Performance Rider (revised to May 1950). This bond provides faithful performance coverage for all employees and officials. Federal credit unions should note that they have the option of providing faithful performance coverage for only the financial officer. Bond forms 576, 577, 578, 579, 580 and 581 are also approved. In the proposal, the NCUA suggested that the approval of bond forms 576–580 be revoked in the final rule due to their non-usage. Some commenters noted that these bond forms are still in use in a very limited number of cases. Their approval has been retained in the final regulation due to their current usage. Credit unions should be aware that any riders added to any of the approved bond forms which reduce coverage under the bond are not permitted unless the prior approval of the NCUA Board has been obtained.

This section also provides for fraud and dishonesty coverage for employees and officials. Such a requirement is not found in the present regulation, but is found in the required bond forms. The requirement has been made a part of the final regulation. This change will simply make the regulation and approved bond language consistent with each other.

Section 701.20(d)—*Minimum Coverage Amount.* In the proposal, the Board attempted to simplify the schedule of minimum coverage. The coverage in both the present regulation and the proposal is based on credit union asset size. The minimum coverage for certain size credit unions was decreased in the proposal. The ceiling of $5,000,000 of minimum coverage was retained in the proposal. The Board has adopted the proposal in the final rule without change. Five commenters addressed the issue of minimum coverage amounts and all were in favor of the change.

Section 701.20(e)—*Increased Coverage, Cash on Hand or in Transit.* Both the present regulation and the proposal require that insurance coverage be increased to the greater of the FCU's daily cash fund or cash in transit when either exceeds minimum requirements. The increased coverage must be obtained within thirty days after the discovery of the need for the increase. No commenters expressed disagreement with this section of the regulation. The final rule modifies the proposal by adding a definition of "money." This definition is found in the present regulation and makes it clear that all types of money are covered under this section.

Section 701.20(f)—*Increased Cash Coverage; Exception.* This section provides an exception to the requirements found in section 701.20(e) when there is a temporary increase in the FCU's cash fund due to an extraordinary event. The exception exists in the present rule. The language was simplified in the proposal. It has been incorporated into the final rule without change. No adverse comments were received on this section.

Section 701.20(g)—*Reduced Coverage; NCUA Approval.* The proposal required that any reduced coverage be approved in writing by the NCUA Board. This requirement was carried over from the present regulation and is found in the final rule. No adverse comments were received on this section.

Section 701.20(h)—*Deductibles.* The proposal set out two alternative deductible schedules (Option A and Option B). Two major changes from the present regulation were proposed. Both alternatives increased the maximum amount of deductibles available and made deductibles available for any bond coverage, including loss due to lack of faithful performance and fraud or dishonesty. Twelve commenters addressed the issue of deductibles. All were in favor of the new deductibles. Most of the commenters agreed that the new deductibles would provide for greater flexibility for credit unions. Commenters hoped that the change would allow for lower bond premiums when credit union management is willing to assume greater risk. Several commenters noted their approval of deductibles for all types of coverage, including fraud and dishonesty. Eight of the commenters preferred Option A and four preferred Option B. The NCUA Board has determined that Option A is preferable and has incorporated it into the final rule. Option A provides greater flexibility and recognizes the difference between large and small credit unions. As proposed, the written approval of the

Board is required for deductibles in excess of the schedule in the rule.

The proposal also set out the provision that no deductible may exceed ten percent of a Federal credit union's regular reserve unless a contingency reserve for the amount of the deductible is set aside. This subsection was added in the proposal as a safety measure since deductibles were increased greatly. Two commenters addressed this issue. Both agreed with the concept of the contingency reserve but asked for clarification as to when the ten percent calculation should be made. The ten percent calculation should be made at least annually, prior to renewing the bond. Each board of directors should make interim reviews as it sees fit. Also, the final rule has been revised to clarify that it is only the deductible in excess of ten percent of the regular reserve that is subject to the contingency reserve requirement.

Section 701.20(i)—*Additional Coverage.* The proposal restates the present rule allowing the NCUA Board to require additional coverage for any Federal credit union. Such coverage must be obtained within thirty days after written notice from the NCUA Board. The requirement is retained in the final rule.

Lastly, the proposal suggested deletion of the present section of the regulation which requires that Federal credit unions obtain bond coverage from companies which hold a certificate of authority from the Secretary of the Treasury. This section was deleted in the proposal and does not appear in the final rule because it duplicates language in the Federal Credit Union Act. Credit unions should be aware that the requirement is still in force.

Regulatory Procedures

The NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions because the rule will increase their management flexibility and reduce restrictions. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 12 CFR Part 701

Credit unions, Fidelity bonds.

Dated: July 25, 1984.

Rosemary Brady,

Secretary of the Board.

PART 12—[AMENDED]

Authority: 12 U.S.C. section 1761a; 12 U.S.C. section 1761b; 12 U.S.C. section 1766 (a) and (h); 12 U.S.C. section 1789(a)(11).

12 CFR 701.20 of the NCUA Rules and Regulations is revised to read as follows:

§ 701.20 Fidelity Bond and Insurance Coverage for Federal Credit Unions.

(a) *Scope.* This Part provides the requirements for fidelity bonds for Federal credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union (protection for losses due to theft, holdup, vandalism, etc.).

(b) *Review of Coverage.* The board of directors of each Federal credit union shall, at least annually, carefully review the bond and insurance coverage in force in order to ascertain its adequacy in relation to risk exposure and to the minimum requirements fixed from time to time by the NCUA Board.

(c) *Minimum Coverage; Approved Forms.* Every Federal credit union will maintain bond and insurance coverage with a company approved by the NCUA Board. Credit Union Blanket Bond Standard Form No. 23 of the Surety Association of America plus Faithful Performance Rider (revised to May 1950) is considered the minimum coverage required and is approved. Credit Union Blanket Bond Forms 576, 577, 578, 579, 580 and 581 are also approved. Any other form must receive the prior written approval of the NCUA Board. The above approved bond forms provide faithful performance coverage for all employees and officials. Federal credit unions have the option of only providing faithful performance of trust coverage for the financial officer elected by the board of directors. The financial officer is the individual charged with the responsibilities of the financial officer set forth in Article VIII, Section 5 of the Federal Credit Union Bylaws. Fidelity bonds must provide coverage for the fraud and dishonesty of all employees, directors, officers, and supervisory and credit committee members.

(d) *Minimum Coverage Amounts.* The minimum amount of bond coverage required will be computed based on the Federal credit union's total assets. The following table lists the minimum requirements:

Assets	Minimum bond
$0 to $10,000	Coverage equal to the credit union's assets.
$10,001 to $1,000,000.	$10,000 for each $100,000 or fraction thereof.
$1,000,001 to $50,000,000.	$100,000 plus $50,000 for each million or fraction thereof over $1,000,000.
$50,000,001 to $295,000,000.	$2,550,000 plus $10,000 for each million or fraction thereof over $50,000,000.
Over $295,000,000	$5,000,000.

It is the duty of the board of directors of each Federal credit union to provide adequate protection to meet its unique circumstances by obtaining, when necessary, bond and insurance coverage in excess of the above minimums.

(e) *Increased Coverage, Cash on Hand or in Transit.* When either of the following amounts exceed a Federal credit union's minimum coverage limits as specified in paragraph (d) of this regulation, the minimum coverage limits for that Federal credit union will be increased to be equal to the greater of the following amounts within thirty days of the discovery of the need for such increase:

(1) The aggregate amount of the daily cash fund (change fund plus maximum anticipated daily money receipts) and food stamps (if any), on the Federal credit union's premises, or

(2) The aggregate amount of the Federal credit union's money and food stamps (if any) placed in transit in any one individual shipment.

For purposes of this section, the term "money" shall include currency, coin, banknotes, Federal Reserve notes, revenue stamps and postage stamps.

(f) *Increased Cash Coverage; Exception.* Paragraph (e) notwithstanding, no increase in coverage will be required where a Federal credit union temporarily increases its cash fund because of an extraordinary event which reasonably cannot be expected to recur.

(g) *Reduced Coverage; NCUA Approval.* Any proposal for reduced coverage must be approved in writing by the NCUA Board at least twenty days in advance of the proposed effective date of the reduction.

(h) *Deductibles.* (1) The maximum amount of deductibles allowed are based on the Federal credit union's total assets. The following table sets out the maximum deductibles:

Assets	Maximum deductibles
0–$100,000	No deductibles allowed.
$100,001–$250,000	$1,000.
$250,001–$1,000,000.	$2,000.
Over $1,000,001	$2,000 plus 1/1000 of total assets up to a maximum deductible of $200,000.

(2) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those shown in this section must have the written approval of the NCUA Board at least twenty days prior to the effective date of such deductibles.

(3) No deductible will exceed ten percent of a Federal credit union's

Regular Reserve unless the credit union creates a segregated Contingency Reserve for the amount of the excess. Valuation allowance accounts, e.g., allowance for loan losses, may not be considered part of the Regular Reserve when determining the maximum deductible.

(i) *Additional Coverage.* The NCUA Board may require additional coverage for any Federal credit union when, in the opinion of the Board, current coverage is insufficient. The board of directors of the Federal credit union must obtain additional coverage within thirty days after the date of written notice from the NCUA Board.

[FR Doc. 84-20278 Filed 7-31-84; 8:45 am]
BILLING CODE 7535-01-M

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule continues the 21 percent Federal credit union loan interest rate ceiling through January 25, 1986. The 21 percent ceiling was scheduled to expire on November 12, 1984. This rule is necessary because of recent increases in market interest rates and continued high costs of funds for Federal credit unions.

DATES: Effective date: July 25, 1984.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Director, Department of Legal Services, or Louis Acuna, Director, Department of Supervision and Examination, at the above address. Telephone numbers: (202) 357-1030 (Mr. Fenner); (202) 357-1065 (Mr. Acuna).

SUPPLEMENTARY INFORMATION:

Background

Public Law 96-221 raised the loan interest rate ceiling for Federal credit unions from 1 percent per month (12 percent per year) to 15 percent per year. It also authorized the NCUA Board to set a higher limit, after consultation with Congress and other Federal financial agencies, for a period not to exceed 18 months, if the Board should determine that (i) money market interest rates have risen over the preceding six months and (ii) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth.

On December 3, 1980, the NCUA Board determined that these conditions had been met. The Board therefore raised the interest rate ceiling to 21 percent for a nine month period. In subsequent actions, the Board extended the period governed by the 21 percent ceiling. The 21 percent ceiling was most recently scheduled to expire on November 12, 1984. In view of recent increases in market interest rates and the effects of prevailing rate levels on cerdit unions, as discussed below, the Board has continued the 21 percent ceiling until January 25, 1986.

Market Rates

Market interest rates have steadily risen in the first 6 months of 1984, as indicated by Table 1:

TABLE 1.—MARKET RATE TRENDS IN THE FIRST SIX MONTHS OF 1984

	90-day T-bill [1] (percent)	180-day T-bill [1] (percent)	1-year T-bill [1] (percent)	Fed funds (percent)	30-day CD (percent)	90-day CD (percent)	180-day CD (percent)
Dec. 31, 1983	9.16	9.55	10.14	9.63	9.60	9.60	9.65
Mar. 31, 1984	9.96	10.36	10.96	10.20	10.25	10.33	10.60
June 31, 1984	10.15	11.03	12.49	10.75	11.50	11.85	12.25
Basis point increase since: Jan. 1, 1984	99	148	235	112	190	225	260

[1] T-bills are quoted on CD equivalent basis.

Rising market rates cause corresponding pressure on Federal credit unions to increase their rates on savings. The rates paid by Federal Credit Unions on IRA/Keogh accounts, on "money market" accounts, and on term certificates closely follow market rates of interest. The percentage of funds in IRA/Keoghs increased from 2.3% to 5.9% of all shares in the year ended 12/31/83; the amount of savings in Federal credit union "money market" accounts more than tripled from $1.3 billion to $4.3 billion in this same year; and, during the last half of 1983, the overall cost of Federal credit unions' funds is estimated to have increased from 7.6% to 8.0%.

Effects on Credit Unions

To offset this increase in the cost of funds, credit unions must maintain or possibly increase their return on loans. The alternative is reduced profitability, which would undermine the system's overall safety and soundness. At 12/31/83, 77% of all Federal credit unions reported *unsecured* loan rates in excess of 15%, with the median rate equal to 15.6%. Reducing the maximum rate on loans to the 15% level would have a significant negative effect on these Federal credit unions' earnings. Similarly, on new auto loans, 5,367 Federal credit unions reported rates at 15% or higher at 12/31/83. Again, in view of increasing market rates since that date, a reduction in the maximum permissible rate to 15% could cause financial difficulty to a significant number of credit unions.

In addition to these specific impacts on lending, the overall trends in credit union reserves, earnings and liquidity recommend against a reduction in the current 21 percent ceiling. At 12/31/83, all reserves and undivided earnings of Federal credit unions were 5.6% of assets, showing a decline from 6.4% at the previous year-end. Credit unions reporting negative earnings for the entire 1983 calendar year were still unacceptably high at 2,443 (22.3% of all Federal Credit Unions) and their losses totaled over $45 million.

Based on the monthly sample maintained by NCUA, for the first 5 months of 1984, the extremely rapid annual rate of growth in FCU savings has started to slow and loan demand has continued to accelerate (Table 2). This combination of trends has led to a declining rate of investment growth, with an actual reduction of .3% in investments in April.

TABLE 2.—ANNUAL PERCENTAGE RATE OF CHANGE FOR 1984 ALL FEDERAL CREDIT UNIONS

	Total savings (percent)	Total loans (percent)
January	21.4	19.9
February	20.4	22.6
March	19.3	24.0
April	18.6	25.4
May	18.3	27.2

A continuation of these trends over a 6-12 month period will result in the first significant liquidity decline in credit unions in the last 5 years. This decline is already evident in the falling savings rate in the corporate credit unions compared with the prior year's rate:

TABLE 3.—CORPORATE CREDIT UNIONS ANNUAL PERCENTAGE RATE OF CHANGE IN SAVINGS

	Total savings (percent)
January	−.5
February	−7.0
March	−6.8
April	−12.7
May	−11.4

It is apparent from the current trends that a reduction in the NCUA interest rate ceiling would increase significantly the negative pressures on liquidity, reserves, and earnings. The interest rate ceiling must be established at a level sufficient to allow flexibility and responsiveness to recent market rate increases.

Extension on Interest Rate Ceiling

The NCUA Board is therefore extending the 21 percent interest rate ceiling for a period of 18 months from the date of this decision. Federal credit unions will continue to be able to charge interest rates of up to 21 percent per year inclusive of all finance charges. The ceiling will expire on January 25, 1986, unless otherwise ordered by the NCUA Board. The ceiling is being extended at this time in order to facilitate planning by credit union officials. Due to the time lag encountered in making changes to data processing systems and the time necessary to revise forms, without the change Federal credit unions would now have to begin planning for the expiration of the interest rate ceiling. A delay in extending the ceiling could therefore result in additional costs being incurred by Federal credit unions.

It is not the intent of the NCUA Board that this action result in increased loan rates. Rather, the ceiling is being extended so that the board of directors of each Federal credit union will continue to have the flexibility to react to economic conditions in the manner that is in the best interests of credit union members.

Regulatory Procedures

The NCUA Board has determined that notice and public comment on this rule are impractical and not in the public interest, 5 U.S.C. 553(b)(B). Due to the need for a planning period and the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, an immediate extension of the 21 percent interest rate ceiling is necessary. For these reasons and because the rule relieves a restriction, the Board has determined not to provide a delayed effective date, 5 U.S.C. 553d.

For the same reasons and because the change will increase the management flexibility and competitive positions of small credit unions, a regulatory flexibility analysis is not required, 5 U.S.C. 603(a), 604(a). Since the rule will relieve burdens and delays will cause unnecessary harm, the NCUA Board also finds that full and separate consideration of all the requirements of the Regulatory Simplification Act is impracticable. However, the NCUA Board has considered a number of these policies, as set forth above.

Authority: 12 U.S.C. 1757(5)(A)(vi)(I), 1757(5)(A)(ix), 1766.

List of Subjects in 12 CFR Part 701

Credit Unions, Loan Interest Rates

§ 701.21-21A [Amended]

Accordingly, NCUA amends § 701.21-21A, paragraph (c) by replacing the date "November 12, 1984" with the date "January 25, 1986" each time it appears, and by replacing the date "November 13, 1984" with the date "January 26, 1986" each time it appears.

Dated: July 25, 1984.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84-20277 Filed 7-31-84; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Part 701

Loans to Members and Lines of Credit to Members

AGENCY: National Credit Union Adminstration ("NCUA").

ACTION: Final rule.

SUMMARY: The NCUA Board adopts revised regulations concerning Federal credit union ("FCU") loans to members and lines of credit to members. The revisions simplify NCUA's previous regulations on this subject. The regulations interpret and implement the provisions of the Federal Credit Union Act ("Act") related to interest rates, maturities and other terms and conditions of FCU lending activities. Important new provisions include an introductory section explaining the scope and purpose of the regulations and a section setting forth NCUA's position on the applicability of state laws affecting FCU lending activities.

EFFECTIVE DATE: September 1, 1984.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, Director, or Bryan Rachlin, Attorney, Department of Legal Services at the above address. Telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION:

Background.

On November 18, 1983, the NCUA Board proposed revised rules concerning Federal credit union loans to members and lines of credit to members (*see*, 48 FR 52475). The proposal was developed pursuant to NCUA's program of regulatory review, and was designed to simplify, reorganize, and clarify NCUA's existing regulations, which had been put in place in a piecemeal fashion over the years as a result of various statutory changes in FCU lending authority.

The Board had requested comment on the proposal through March 16, 1984. A total of 43 comment letters were received. The comments were generally very favorable, and based on a review of those comments and further analysis, the Board has adopted these final rules.

The Board considered total deregulation but determined that regulations are needed for a number of reasons, including: Implementation of the provisions of Title III of Pub. L. 96-221 concerning the FCU loan interest rate ceiling; establishment of clear authority for FCU's to engage in certain types of lending such as variable rate loans and lines of credit and alternative mortgage loans; and clarification of the Board's position concerning preemption of state laws that would otherwise affect FCU lending activities.

The revised regulations are in seven sections. Section 701.21(a), entitled *Statement of Scope and Purpose*, explains that the regulations apply only to FCU loans and lines of credit *to members* (not loans to other credit unions and credit organizations) and that the regulations interpret and implement various provisions of the FCU Act. Section 701.21(b), entitled *Relation to Other Laws*, establishes rules for determing whether the Act and NCUA's regulations preempt state laws that would otherwise apply to FCU lending activities. Section 701.21(c), entitled *General Rules*, sets forth provisions that have general applicability to loans and lines of credit to members such as the 12 year maturity limit and the loan interest rate ceiling. (By NCUA Board action on July 25, 1984, the temporary 21 percent loan interest rate ceiling was extended through January 25, 1986. The new expiration date is indicated in section 701.21(c) (7)). Section 701.21(d), entitled *Loans and*

Lines of Credit to Officials, sets forth procedures for implementing the provisions of the Act that require board of directors' approval for certain loans and lines of credit to officials and contains a prohibition against preferential treatment of officials. Section 701.21(e), entitled *Insured, Guaranteed and Advance Commitment Loans* clarifies that statutory limits such as the 12 year maturity limit and the loan interest rate ceiling do not apply to loans made pursuant to programs of and with the backing of Federal, state or local government agencies. Such loans may be made to FCU members according to the terms of the relevant government program. Section 701.21(f), entitled *15 Year Loans*, clarifies that pursuant to the terms of the Act, certain mobile home and second mortgage loans may be made with maturities up to 15 years notwithstanding the general 12 year maturity limit. Section 701.21(g), entitled *Long Term Mortgage Loans*, implements the provisions of the Act authorizing long term first mortgage loans (both conventional and alternative mortgages) within certain statutory limits and safety and soundness considerations.

The substance of the final regulations by and large tracks the proposed revised regulations. The more significant changes in the final rule are discussed in greater detail below.

Summary of Substantive Changes

Section 701.21(b) Relation to other laws.

The proposed rule contained a general statement of NCUA's intent to preempt state laws affecting the rates, terms and conditions of loans and lines of credit to Federal credit union members. The proposal prompted many comments for further guidance from NCUA in the area of Federal preemption. Accordingly, NCUA has developed a more detailed explanation of its intent with respect to preemption of state laws. The general preemption language in the proposed rule has been deleted and a completely new preemption section has been placed in the final rule (Section 701.21(b), Relation to Other Laws). Section 701.21(b) is a five part explanation of the extent to which the Federal Credit Union Act and NCUA's regulations preempt other laws affecting loans and lines of credit offered by Federal credit unions.

Sections 701.21(b) (1)–(3) establish three "baskets" for preemption purposes:

First, pursuant to § 701.21(b)(1), provisions of state law affecting rates, terms of repayment and other conditions of FCU lending are preempted. This section sets forth a list of areas that are specifically preemepted. Included are state laws affecting rate of interest amount of finance charge, use of and limits on variable rate credit, maturity limits and other terms of repayment, and various other conditions. It is noted that the list is exemplary only. It is not intended to be nor should it be considered exhaustive.

Second, § 701.21(b)(2) clarifies that certain areas of state law not affecting rate and terms of repayment are not preempted. Included are state laws concerning insurance, creation of security interests and property transfers. Also, certain areas that the FCU Act and NCUA's regulations traditionally have not addressed are not preempted, such as state imposed limits on collection costs and state law "plain English" requirements. This assumes, of course, in the case of state regulations that the regulatory body has received a proper legislative grant of jurisdiction over FCU's. Also, in the event of a conflict between this section and 701.21(b)(1), it is NCUA's intent that § 701.21(b)(1) will prevail.

Third, § 701.21(b)(3) clarifies that in those cases where a Federal law other than the FCU Act, for example the Federal Truth In Lending Act or the Federal Equal Credit Opportunity Act, establishes its own standards for determining preemption of state laws, FCU's should generally look to those standards in determining preemption issues. Again, however, if a conflict exists between this section and § 701.21(b)(1), it is the NCUA Board's intent that (b)(1) prevail. Thus, for example, if a state law or regulation imposes a stricter standard than the Federal Truth In Lending Act and Regulation Z for advance notification to the customer of a change in the rate on a variable rate account, that state requirement would be preempted by § 701.21(b)(i)(A)(3) which preempts state law limiting "the manner or timing of notifying the borrower of a change in interest rates." The FCU would, of course, continue to be required to meet all relevant notice and disclosure requirements of the Federal Truth In Lending Act and Regulation Z.

Section 701.21(b)(4) clarifies that, unless otherwise agreed, the NCUA Board retains exclusive examination and enforcement jurisdiction over FCU's. Section 701.21(b)(5) defines "state law" for purposes of § 701.21(b) to include the constitution, laws, regulations and judicial decisions of any state, the District of Columbia, the several territories and possessions of the U.S., and the Commonwealth of Puerto Rico.

Loans and Lines of Credit Distinguished

The proposed rule used the term "loan" in a broad sense to encompass both loans and extensions of credit under a line of credit. Several commenters noted that this resulted in confusion over whether certain statutory requirements affecting loans also are intended by regulation to apply to lines of credit; for example, the general 12 year maturity limit and the collateral limits and other limits on longer term loans only apply, on the face of the statute, to loans. It was *not* the Board's intent to extend these limits by regulation to lines of credit. Thus, for example, a home equity-secured line of credit is not subject to statutory or regulatory limits on maturity and lien priority. To avoid confusion, the final rule has been revised so that any provisions that apply to both loans and lines of credit either specifically mention both or use the broader term "extension of credit."

The fact that the Board has chosen not to subject lines of credit to the statutory limits on maturity and collateralization should not be taken to mean that these considerations are unimportant. Rather, for any Federal credit union that offers lines of credit, it is the responsibility of the board of directors to establish lending policies that reflect careful consideration of the duration of lines of credit and the amount and type of collateral to be required.

Prohibited Fees

The vast majority of the commenters supported the provision of the proposed rule that would prohibit an official or employee of an FCU, or any immediate family member of such an individual, from receiving any fee, commission or other compensation in connection with procuring or insuring a loan or line of credit. The provision has been carried over in the final rule, at § 701.21(c)(8). As suggested by some commenters, a definition of "immediate family member" has been added. The term is defined as "a spouse, or child, parent, grandchild, grandparent, brother or sister, or the spouse of any such individual." This is the same definition used in a similar prohibition contained in NCUA's regulations concerning FCU investment activities (see 12 CFR 703.2(i) and 703.4(e)).

15 Year Loans

Section 107(5)(A)(ii) of the Act (12 U.S.C. 1757(5)(A)(ii)) authorizes certain second mortgage and mobile home loans

to be made with maturities up to 15 years, nothwithstanding the general 12 year maturity limit on other loans. NCUA's previous regulations have not addressed this authority. In order to improve the utility of the regulation, a section was added to the proposal explaining the authority. The commenters agreed and the explanation has been carried over in § 701.21(f) of the final rule. Also, as proposed, the regulation allows certain *first* mortgage loans with maturities of up to 15 years pursuant to this authority without regard to the additional statutory and regulatory limits affecting longer term (up to 40 years) first mortgages. Thus, where the member has no mortgage on the home the member currently resides in, a first mortgage home equity loan of up to 15 years may be made pursuant to this authority. To clarify the purpose of this authority, the relevant language of the final § 701.21(f) is limited to *nonpurchase money* first mortgages. The Board believes this additional authority is clearly consistent with the statutory purpose and will provide home equity loans to a greater number of members while affording equal or stronger security to the entire credit union. The Board considered it necessary to decline, however, to allow junior mortgages (3rd, 4th and so on) pursuant to this authority as suggested by some commenters. Such loans may of course be made, as authorized by the statute, with maturities of up to 12 years.

Long Term Mortgage Loans

Section 107(5)(A)(i) of the Act (12 U.S.C. 1757(5)(A)(i)) authorizes FCU's to make residential real estate loans to members with maturities up to 30 years or such longer periods as set by the NCUA Board) if certain conditions are met. NCUA's existing regulations have implemented this authority through two separate sections. Section 701.21–6 has implemented the authority for fixed rate mortgage loans, and § 701.21–6B has implemented the authority for adjustable rate mortgage loans. In the proposed rule, NCUA combined and suggested major simplification and other changes to these sections. The commenters supported these proposals, which have been adopted in the final rule at § 701.21(g) entitled *Long Term Mortgage Loans.* First, the section does not limit FCU's to fixed rate and adjustable rate mortgages. Thus, a full range of alternative mortgages are permitted so long as the FCU meets the statutory requirements, i.e., that the loan be secured by a first lien on a one to four family dwelling that is or will be the principal residence of the member/borrower. Second, as proposed, virtually all of the restrictive requirements of the previous rules have been eliminated, e.g., provisions concerning amortization, percentage of assets limits, loan to value ratios, and interest rate adjustments (including choice of indexes). Also as proposed, the final rule specifically allows maturities of up to 40 years on long term first mortgage loans.

The final regulation contains one significant change from the proposal. The proposed regulation would have continued to require that FCU's use standard forms, developed by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, for all long term mortgage loans. This requirement was intended to ensure, in light of the relative newness of mortgage lending authority to FCU's and the substantial proposed deregulation of this authority, that FCU mortgage loans be made in a financially and legally sound manner. The commenters supported the intent of this proposal, but many suggested that it unnecessarily restricted FCU's, by precluding other standard applications, notes and security instruments (those developed by the Federal Housing Administration and the Veterans Administration for use in their loan programs) and by precluding FCU's from developing forms tailored to their particular locale and the needs of their membership. Accordingly the final rule has been revised to allow applications notes and security instruments that either (i) have been developed by FNMA, FHLMC, FHA or VA, or (ii) have been reviewed by legal counsel and are supported by a current opinion attesting to their compliance with relevant local, state and Federal laws.

Business Relationship With Mortgage Lender

NCUA's previous regulations contain a section authorizing, and setting limits on, FCU involvement with third party mortgage lenders for the purpose of making mortgage loans available to the FCU's members. NCUA proposed to repeal this regulation, thus allowing such activity to be governed by NCUA's less restrictive regulation concerning general group purchasing activities (12 CFR Part 721). The majority of commenters agreed with this proposal, and accordingly the provisions concerning business relationship with other mortgage lenders are not included in the final rule.

Loan Participation and Eligible Obligations

Finally, as proposed, the last two parts of NCUA's previous lending regulations, § 701.21–7 (Loan Participation) and § 701.21–8 (Purchase, Sale, and Pledge of Eligible Obligations), are unaffected by these final rules, with the exception of certain proposed conforming amendments and appropriate renumbering of the sections. In the interest of expediting the revision of the more important regulations, substantive review of these sections has been reserved for a later date.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board hereby certifies that these final rules will not have a significant economic impact on a substantial number of small credit unions because the rules increase their management flexibility, increase their competitive position and reduce their paperwork burdens. Therefore, a Regulatory Flexibility Analysis is not required.

List of Subjects in 12 CFR Part 701

Credit Unions, Mortgages.

Authority: 12 U.S.C. 1757, 1766(a), and 1789(a)(11).

By the National Credit Union Administration Board on the 25th day of July, 1984.

Rosemary Brady,

Secretary of the Board.

PART 701—[AMENDED]

Accordingly, NCUA's rules and regulations are amended as follows:

1. Section 701.21 is added to read as follows:

§ 701.21 Loans to members and lines of credit to members.

(a) *Statement of scope and purpose.* This section complements the provisions of section 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) authorizing Federal credit unions to make loans to members and issue lines of credit (including credit cards) to members. Section 107(5) of the Act contains certain limitations on matters such as loan maturity, rate of interest, security, and prepayment penalties. The primary purpose of this section is to interpret and implement the provisions of the Act. In addition, this section states the NCUA Board's intent concerning preemption of state laws, and expands the authority of Federal credit unions to enforce due-on-sale clauses in real property loans. Also, while this section generally applies to Federal credit unions only, its provisions may be utilized by state chartered credit unions with respect to alternative mortgage transactions in accordance with Title VIII of Pub. L. 97–230. Finally, it is noted

that this section does not apply to loans by Federal credit unions to other credit unions (although certain statutory limitations in section 107 of the Act apply), nor to loans to credit union organizations (which are governed by section 107(5)(D) of the Act and § 701.27 of NCUA's regulations).

(b) *Relation to other laws.*—(1) *Preemption of state laws.* Section 701.21 is promulgated pursuant to the NCUA's Board's exclusive authority as set forth in section 107(5) of the Federal Credit Union Act (12 U.S.C 1757(5)) to regulate the rates, terms of repayment and other conditions of Federal credit union loans and lines of credit (including credit cards) to members. This exercise of the Board's authority preempts any state law purporting to limit or affect:

(i) (A) Rates of interest and amounts of finance charges, including:

(*1*) The frequency or the increments by which a variable interest rate may be changed;

(*2*) The index to which a variable interest rate may be tied;

(*3*) The manner or timing of notifying the borrower of a change in interest rate;

(*4*) The authority to increase the interest rate on an existing balance;

(B) Late charges; and

(C) Closing costs, application, origination, or other fees;

(ii) Terms of repayment, including:

(A) The maturity of loans and lines of credit;

(B) The amount, uniformity, and frequency of payments, including the accrual of unpaid interest if payments are insufficient to pay all interest due;

(C) Balloon payments; and

(D) Prepayment limits;

(iii) Conditions related to:

(A) The amount of the loan or line of credit;

(B) The purpose of the loan or line of credit;

(C) The type or amount of security and the relation of the value of the security to the amount of the loan or line of credit;

(D) Eligible borrowers; and

(E) The imposition and enforcement of liens on the shares of borrowers and accommodation parties.

(2) *Matters not preempted.* Except as provided by paragraph (b)(1) of this section, it is not the Board's intent to preempt state laws that do not affect rates, terms of repayment and other conditions described above concerning loans and lines of credit, for example:

(i) Insurance laws;

(ii) Laws related to transfer of and security interests in real and personal property (see, however, paragraph (g)(6) of this section concerning the use and exercise of due-on-sale clauses);

(iii) Conditions related to:

(A) Collection costs and attorneys' fees;

(B) Requirements that consumer lending documents be in "plain language;" and

(C) The circumstances in which a borrower may be declared in default and may cure default.

(3) *Other Federal law.* Except as provided by paragraph (b)(1) of this section, it is not the Board's intent to preempt state laws affecting aspects of credit transactions that are primarily regulated by Federal law other than the Federal Credit Union Act, for example, state laws concering credit cost disclosure requirements, credit discrimination, credit reporting practices, unfair credit practices, and debt collection practices. Applicability of state law in these instances should be determined pursuant to the preemption standards of the relevant Federal law and regulations.

(4) *Examination and Enforcement.* Except as otherwise agreed by the NCUA Board, the Board retains exclusive examination and administrative enforcement jurisdiction over Federal credit unions. Violations of Federal or applicable state laws related to the lending activities of a Federal credit union should be referred to the appropriate NCUA regional office.

(5) *Definition of State Law.* For purposes of paragraph (b) of this section "state law" means the constitution, laws, regulations and judicial decisions of any state, the District of Columbia, the several territories and possessions of the United States, and the Commonwealth of Puerto Rico.

(c) *General Rules.* (1) *Scope.* The following general rules apply to all loans to members and, where indicated, all lines of credit (including credit cards) to members, except as otherwise provided in the remaining provisions of section 701.21.

(2) *Written policies.* The board of directors of each Federal credit union shall establish written policies for loans and lines of credit consistent with the relevant provisions of the Act, NCUA's regulations, and other applicable laws and regulations.

(3) *Credit application.* Consistent with policies established by the board of directors, the credit committee or loan officer shall ensure that a credit application is kept on file for each borrower supporting the decision to make a loan or establish a line of credit.

(4) *Maturity.* The maturity of a loan to a member may not exceed 12 years. Lines of credit are not subject to a statutory or regulatory maturity limit. Amortization of line of credit balances and the type and amount of security on any line of credit shall be as determined by contract between the Federal credit union and the member/borrower.

(5) *Ten percent limit.* No loan or line of credit advance may be made to any member if such loan or advance would cause that member to be indebted to the Federal credit union upon loans and advances made to the member in an aggregate amount exceeding 10% of the credit union's total unimpaired shares and surplus.

(6) *Early payment.* A member may repay a loan, or outstanding balance on a line of credit, prior to maturity in whole or in part on any business day without penalty.

(7) *Loan interest rates.* (i) *General.* Except when a higher maximum rate is provided for in paragraph (c)(7)(ii) of this section, a Federal credit union may extend credit to its members at rates not to exceed 15 percent per year on the unpaid balance inclusive of all finance charges. Variable rates are permitted on the condition that the effective rate over the term of the loan (or line of credit) does not exceed the maximum permissible rate.

(ii) *Temporary Rates.* (A) *Authorization.* Effective May 12, 1980, a Federal credit union may extend credit to its members at rates not to exceed 21 percent per year on the unpaid balance inclusive of all finance charges. This authority does not abrogate contractual provisions requiring a lower rate.

(B) *Expiration.* After January 15, 1986, or as otherwise ordered by the NCUA Board, the maximum rate on Federal credit union extensions of credit to members shall revert to 15 percent per year. Rates in excess of 15 percent per year (in the discretion of the Federal credit union and as provided in the credit agreement) but not greater than 21 percent per year may be charged on loans and line of credit balances existing before January 26, 1986. Rates in excess of 15 percent per year shall not be charged on line of credit advances made after January 25, 1986.

(8) *Prohibited Fees.* A Federal credit union shall not make any loan or extend any line of credit if, either directly or indirectly, any commission, fee or other compensation is to be received by any of the credit union's directors, officials, committee members or employees, or any immediate family members of such individuals, for procuring or insuring the loan. For purposes of this section "immediate family member" means a spouse, or a child, parent, grandchild,

grandparent, brother or sister, or the spouse of any such individual.

(d) *Loans and Lines of Credit to Officials.* (1) *Purpose.* Sections 107(5)(A)(iv) and (v) of the Act require the approval of the board of directors of the Federal credit union in any case where the aggregate of loans to an official and loans on which that official serves as endorser or guarantor exceeds $10,000 plus pledged shares. This paragraph implements the requirement by establishing procedures for determining whether board of directors's approval is required. The section also prohibits preferential treatment of officials.

(2) *Official.* An "official" is any member of the board of directors, credit committee or supervisory committee.

(3) *Initial approval.* All applications for loans or lines of credit on which an official will be either a direct obligor or an endorser, cosigner or guarantor shall be initially acted upon by either the board of directors, the credit committee or a loan officer, as specified in the Federal credit union's bylaws.

(4) *Board of Directors' Review.* The board of directors shall, in any case review and approve or deny and application on which an official is a direct obligor, or endorser, cosigner or guarantor if the following computation produces a total in excess of $10,000:

(i) Add:

(A) The amount of the current application.

(B) The outstanding balances of loans, including the used portion of an approved line of credit, extended to or endorsed, cosigned or guaranteed by the official.

(C) The total unused portion of approved lines of credit extended to or endorsed, cosigned or guaranteed by the official.

(ii) From the above total subtract:

(A) The amount of shares pledged by the official on loans or lines of credit extended to or endorsed, cosigned or guaranteed by the official.

(B) The amount of shares to be pledged by the official on the loan or line of credit applied for.

(5) *Nonpreferential Treatment.* The rates, terms and conditions of any loan or line of credit made to an official, or on which an official is an endorser or guarantor, shall not be more favorable than the rates, terms and conditions for comparable loans or lines of credit to any other credit union member.

(e) *Insured, Guaranteed and Advance Commitment Loans.* A loan secured by the insurance or guarantee of, or with an advance commitment to purchase the loan by, the Federal Government, a State government, or any agency of either, may be made for the maturity and under the terms and conditions, including rate of interest, specified in the law, regulations or program under which the insurance, guarantee or commitment is provided.

(f) *15 Year Loans.* Notwithstanding the general 12 year maturity limit on loans to members, a Federal credit union may make loans with maturities of up to 15 years in the case of (1) a loan to finance the purchase of a mobile home if the mobile home will be used as the member-borrower's residence and the loan is secured by a first lien on the mobile home and (2) a second mortgage loan (or a non-purchase money first mortgage loan in the case of a residence on which there is no existing first mortgage) if the loan is secured by a residential dwelling which is the residence of the member-borrower.

(g) *Long-Term Mortgage Loans.* (1) *Authority.* A Federal credit union may make residential real estate loans to members, with maturities of up to 40 years, or such longer period as may be permitted by the NCUA Board on a case-by-case basis, subject to the conditions of this paragraph.

(2) *Statutory Limits.* The loan shall be made on a one to four family dwelling that is or will be the principal residence of the member-borrower and the loan shall be secured by a perfected first lien in favor of the credit union on such dwelling (or a perfected first security interest in the case of either a residential cooperative or a leasehold or ground rent estate).

(3) *Loan Application.* The loan application shall be a completed standard Federal Housing Administration, Veterans Administration, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation/Federal National Mortgage Association application form. In lieu of use of a standard application the Federal credit union may have a current attorney's opinion on file stating that the forms in use meet the requirements of applicable Federal, state and local laws.

(4) *Security Instrument and Note.* The security instrument and note shall be executed on the most current version of the FHA, VA, FHLMC, FNMA, or FHLMC/FNMA Uniform Instruments for the jurisdiction in which the property is located. No prepayment penalty shall be allowed, although a Federal credit union may require that any partial prepayments be made on the date monthly installments are due and be in the amount of that part of one or more monthly installments that would be applicable to principal. In lieu of use of a standard security instrument and note, the Federal credit union may have a current attorney's opinion on file stating that the security instrument and note in use meet the requirements of applicable Federal, state and local laws.

(5) *First Lien, Territorial Limits.* The loan shall be secured by a perfected first lien or first security interest in favor of the credit union supported by a properly executed and recorded security instrument. No loan shall be secured by a residence located outside the United States of America, its territories and possessions, or the Commonwealth of Puerto Rico.

(6) *Due-On-Sale Clauses.* (i) Except as otherwise provided herein, the exercise of a due-on-sale clause by a Federal credit union is governed exclusively by section 341 of Public Law 97–320 and by any regulations issued by the Federal Home Loan Bank Board implementing section 341.

(ii) In the case of a contract involving a long-term (greater than twelve years), fixed rate first mortgage loan which was made or assumed, including a transfer of the liened property subject to the loan, during the period beginning on the date a State adopted a constitutional provision or statute prohibiting the exercise of due-on-sale clauses, or the date on which the highest court of such state has rendered a decision (or if the highest court has not so decided, the date on which the next highest court has rendered a decision resulting in a final judgment if such decision applies statewide) prohibiting such exercise, and ending on October 15, 1982, a Federal credit union may exercise a due-on-sale clause in the case of a transfer which occurs on or after November 18, 1982, unless exercise of the due-on-sale clause would be based on any of the following:

(A) The creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property;

(B) The creation of a purchase money security interest for household appliances;

(C) A transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(D) The granting of a leasehold interest of 3 years or less not containing an option to purchase;

(E) A transfer to a relative resulting from the death of a borrower;

(F) A transfer where the spouse or children of the borrower become an owner of the property;

(G) A transfer resulting from a decree of a dissolution of marriage, a legal separation agreement, or from an

incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property;

(H) A transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; or

(I) Any other transfer or disposition described in regulations promulgated by the Federal Home Loan Bank Board.

§§ 701.21–1 through 701.21–6B [Removed]

2. Sections 701.21–1 through 701.21–6B are removed.

§§ 701.22 and 701.23 [Redesignated from §§ 701.21–7 and 701.21–8]

3. Existing §§ 701.21–7 and 701.21–8 are redesignated as §§ 701.22 and 701.23, respectively.

§ 701.22 [Amended]

4. Redesignated § 701.22 is amended by removing paragraph (b)(3) and redesignating paragraph (b)(4) as new paragraph (b)(3).

§ 701.23 [Amended]

4. Redesignated § 701.23 is amended by removing the reference in § 701.23(b)(1)(iv) to "section 701.21–6" and inserting in lieu thereof "section 701.21(g)", and by removing the last sentence of section 701.23(b)(1)(iv).

[FR Doc. 84–20276 Filed 7–31–84; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84–AWA–5]

[Alteration of VOR Federal Airways; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was discovered in the description of new VOR Federal Airway V–407 published in the **Federal Register** on July 3, 1984 (49 FR 27299) for the airway segment between Lufkin, TX, and Shreveport, LA. This action corrects that error.

EFFECTIVE DATE: 0901 GMT, August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Brent A. Fernald, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 84–17581 was published on July 3, 1984, which amended the descriptions of several VOR Federal Airways located in the vicinity of Houston, TX. A mistake was discovered in the description of new airway V–407 for the airway segment between Lufkin, TX, and Shreveport, LA, and this action corrects that error.

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

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Correction

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Federal Register Document 84–17581, as published in the **Federal Register** on July 3, 1984, (49 FR 27299) is corrected in § 71.123 under V–407 by deleting the words "Lufkin, TX; to Shreveport, LA." and substituting the words "Lufkin, TX; INT Lufkin 032° and Shreveport, LA, 184° radials; to Shreveport."

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

Issued in Washington, D.C. on July 25, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–20230 Filed 7–31–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 84–ACE–03]

Alteration of Transition Area; Lebanon, MO

Correction

In FR Doc. 84–17995 appearing on page 27927 in the issue of Monday, July 9, 1984, make the following correction.

In the second column, under the heading "Lebanon, Missouri" line 6, "Latitude 37°34'37" N.;" should read "Latitude 37°34'17" N.;".

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Allergenic Products Advisory Committee; Establishment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment by the Secretary of Health and Human Services of the Allergenic Products Advisory Committee in FDA's Center for Drugs and Biologics. In a notice published elsewhere in this issue of the **Federal Register**, FDA asks for nominations for membership on this committee. This document adds to the agency's list of standing advisory committees.

DATES: This rule is effective August 31, 1984, authority for the committee being established will end on July 9, 1986, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463) and § 14.40(b) (21 CFR 14.40(b)), FDA is announcing the establishment by the Secretary of Health and Human Services of the Allergenic Products Advisory Committee.

The committee will review and evaluate available data concerning the safety, effectiveness, and adequacy of labeling of allergenic biological products or materials that are administered to

humans for the diagnosis, prevention, or treatment of allergies and allergic diseases, and advise the Secretary, the Assistant Secretary for Health, and the Commissioner of Food and Drugs of its findings regarding the affirmation or revocation of biological product licenses; on the safety, effectiveness, and labeling of the products; on clinical and laboratory studies on such products; on amendments or revisions to regulations governing the manufacture, testing, and licensing of allergenic biological products; and on the quality and relevance of FDA's research programs which provide the scientific support for regulating these agents.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Biological products, Allergenic products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 14 is amended in § 14.100 by adding paragraph (b)(1)(i) to read as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

§ 14.100 List of standing advisory committees.

* * * * *

(b)(1) * * *

(i) *Allergenic Products Advisory Committee.* (*a*) Date established: July 9, 1984.

(*b*) Function: Reviews and evaluates available data concerning safety and effectiveness of allergenic biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

* * * * *

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner of Food and Drugs finds that there is good cause for the rule to be effective immediately upon publication in the **Federal Register** August 1, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: July 26, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-20236 Filed 7-31-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 82N-0342]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers; Colorants for Polymers; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Final rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for submitting comments on its food additive regulation that established a category called "colorants for polymers" for coloring agents used in polymeric food-contact materials. FDA is taking this action in response to an industry request.

DATE: Comments by August 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 6, 1972 (37 FR 11255), FDA published a proposed regulation entitled "Colorants for plastics" that would establish a section in the Code of Federal Regulations for coloring agents used in plastics intended for food-contact use. In the **Federal Register** of October 14, 1983 (48 FR 46773), FDA published a final rule that established § 178.3297 *Colorants for polymers* (21 CFR 178.3297). (See that document for discussion of the issue.)

Because considerable time had elapsed between the 1972 proposal and publication of the final rule, the agency provided a 30-day period for interested persons to comment on any aspect of the final rule. The agency stated that it would consider making revisions in the final regulation based upon comments received. FDA received a request to extend the comment period. In the **Federal Register** of June 22, 1984 (49 FR 25630), FDA reopened the comment period and provided for submission of comments on or before July 23, 1984.

FDA has received a request on behalf of the Society of the Plastics Industry, Inc. (SPI), to hold the comment period open until August 10, 1984. The additional time would allow a task force of SPI's Food, Drug and Cosmetic Packaging Materials Committee to prepare comments on the final rule that take into account the range of views held by members of this industry on the subject. SPI believed that keeping the comment period open until August 10, 1984, would allow time to complete its membership-approval process.

FDA has evaluated the request, and concludes that it is appropriate to reopen the comment period as requested. The agency believes that allowing SPI the additional time requested will result in information that is more useful. The agency also wishes to ensure that other interested parties have the same additional time to comment on this final rule. Therefore, FDA is reopening the comment period to August 10, 1984.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Interested persons may, on or before August 10, 1984, submit to the Dockets Management Branch (address above) written comments regarding this final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 26, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-20239 Filed 7-27-84; 10:56 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Approval of Permanent Program Amendment and Removal of Condition From the New Mexico Program

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of an amendment to the New Mexico permanent regulatory program submitted by New Mexico to satisfy a condition imposed by the Secretary of the Interior on the approval of the New Mexico permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment submitted by New Mexico on February 8, 1984, for the Secretary's approval includes modifications to regulations concerning bonding.

After providing opportunity for public comment and conducting a thorough review of the program amendment in accordance with 30 CFR 732.17, the Secretary of the Interior has decided that the amendment meets the requirements of SMCRA and the Federal regulations, with one exception discussed below.

The Federal rules at 30 CFR Part 931 which codify decisions concerning the New Mexico program are being amended to implement these actions.

EFFECTIVE DATE: August 1, 1984.

ADDRESSES: Copies of the New Mexico program and the Administrative record on the New Mexico program are available for public inspection and copying during business hours at:.

Office of Surface Mining Reclamation and Enforcement, Room 5124, 1100 L Street NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Field Office, 219 Central Avenue NW., Albuquerque, New Mexico 87102.

Energy and Minerals Department, Division of Mining and Minerals, 525 Camino De Los Marquez, Santa Fe, New Mexico, Telephone: (505) 827–5451.

FOR FURTHER INFORMATION CONTACT: Robert Hagen, Field Office Director, Office of Surface Mining, 219 Central Avenue NW., Albuquerque, New Mexico 87102; Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1980, OSM received a proposed regulatory program from the State of New Mexico. On December 31, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the proposed program conditioned on the correction of 12 minor deficiencies (45 FR 86459–86490).

Condition (j) is one the conditions remaining on the New Mexico program. On March 15, 1983, the State requested an extension of the deadline for the State to satisfy condition (j) pertaining to the State's bonding regulations. The Secretary on June 20, 1983, granted New Mexico's request for an extension. The new deadline was December 10, 1983, four months after the promulgation of revisions to the Federal rules on self-bonding.

I. Submission of Program Amendments

On February 8, 1984, the State of New Mexico submitted to OSM an amendment to its permanent regulatory program intended to satisfy condition (j). The amendment consists of five sections. The first section is a repeal of Parts 14, 15, 16, 17 and 18 of Chapter J of Rule 80–1 pertaining to bond and insurance requirement for surface coal mining and reclamation operations. The second section is the withdrawal of 19 definitions relating to bonding from Part 1 of Chapter A of Rule 80–1. The third portion of the amendment is the addition of 10 definitions relating to bonding to Part 1 of Chapter A of Rule 80–1. The fourth section of the amendment is the addition of language at Part 14 of Chapter J of Rule 80–1 to replace the repealed language discussed above. The last section of the amendment is a revision to the index of Rule 80–1 reflecting the above changes. The amendment is intended to implement State program counterparts to the Federal regulations at 30 CFR Part 800 relating to bonding.

On March 2, 1984, OSM announced receipt of the proposed amendment, a public comment period and opportunity for a public hearing (49 FR 7836). Since no requests were made, the public hearing scheduled for March 27, 1984 was not held. The public comment period ended on April 2, 1984.

II. Secretary's Findings

A. General Findings

The Secretary finds, in accordance with SMCRA and 30 CFR 732.17, that the amendment submitted by New Mexico on February 8, 1984, meets the requirements of SMCRA and the Federal regulations with one exception discussed below. Only those provisions of particular interest or concern are discussed in the specific findings which follow. Unless specifically stated, the Secretary approves the revisions to the New Mexico regulations. Discussion of only those provisions for which specific findings are made does not imply any deficiency in any provision not discussed. The provisions not specifically discussed are found to be consistent with the Act and no less effective than the Federal regulations. All of the provisions involved in the amendment are cited at the end of this notice in the amendatory language for § 931.15.

The amendment submitted by New Mexico repeals Parts 14, 15, 16, 17 and 18 of the New Mexico surface coal mining regulations which concern bond and insurance requirements. Also, certain definitions pertaining to bonding are withdrawn. These are replaced by a new set of bonding regulations, including self-bonding rules, which closely track recently published Federal rules for bonding (48 FR 32932, July 19, 1983) and self-bonding (48 FR 36418, August 10, 1983).

B. Findings on Regulatory Amendments

1. New Mexico has added a provision at 14–10 to require the applicant to provide, for the regulatory authority's review, a bonding proposal to the regulatory authority which shall include all information required by the New Mexico bonding rules. There is no Federal counterpart to this rule. However, the provision adds requirements that will help to ensure that the bonding rules will be implemented as required. Therefore, the Secretary finds this provision to be no less effective than Federal requirements.

2. New Mexico requires as section 14–21(c)(2)(ii) that fair market value of real property used as collateral, be determined by a qualified appraiser previously approved by the regulatory authority. Federal rule 30 CFR 800.21(c)(2)(ii) requires that the appraisal be done by a certified appraiser. The New Mexico requirement is more specific than the Federal requirement in assuring that the appraisal is valid. The Secretary, therefore, finds this provision to be no less effective than the Federal provision.

3. New Mexico sections 14–21 (e)(1) and (e)(2) differ from the Federal counterpart 30 CFR 800.21(e)(1). New Mexico has expanded upon the Federal requirement for determination of the fair market value of collateral. The New Mexico provisions more clearly state this requirement than do the Federal rules. Also, New Mexico tracks 30 CFR 800.21(e)(2) in its section 14–21(e)(3) assuring that "in no case shall the bond value of collateral exceed the market value." Therefore, the Secretary finds the New Mexico provision to be no less effective than Federal requirements.

4. New Mexico proposed at sections 14–23(a) and 14–23(b) to allow a "separate guarantor" other than the applicant's parent guarantor to guarantee the self bond of an applicant. This is less effective than 30 CFR 800.23(b) and 800.23(c) which allow a written guarantee for an applicant's self bond by the applicant's parent corporation only. As stated in the preamble to the Federal rule at 48 FR 36425 (August 10, 1983):

> Only a parent corporation that actually owns or controls the applicant has the necessary influence to affect management decisions of the operator and is able to supply quickly needed capital, labor or expertise in case of problems.

Therefore, the Secretary finds the phrase "or a separate guarantor" as found in the first sentence of each of proposed sections 14–23(a) and 14–23(b), to be less effective than the Federal

rules, 30 CER 800.23 (b) and (c). The Secretary disapproves this phrase in the New Mexico amendment but approves the remainder of the amendment. Disapproval and removal of this phrase does not affect the acceptability or the meaning of the remaining provisions.

5. Federal rule 30 CFR 800.23(e)(4) provides that "if permitted under State law, the indemnity agreement when under forfeiture shall operate as a judgment against those parties liable under the indemnity agreement." New Mexico has omitted this sentence from section 14–23(d)(4) of its proposed rules because it is contrary to State law. The Secretary finds this to be appropriate in light of the wording of the Federal rule, and no less effective than Federal requirements.

6. New Mexico rule 14–60(d) allows the regulatory authority to accept a commitment to self-insure in lieu of a certificate for a public liability insurance policy, if the regulatory authority had approved a self-bond for the applicant in accordance with section 14–23. In the course of its review of the proposed New Mexico amendment, OSM requested assurance from New Mexico that the proposed self-insurance rule would be no less effective than Federal rule 30 CFR 800.60(d). New Mexico responded by pointing out that the New Mexico law section 11(B) combined with proposed sections 14–23(a) and 14–60(d), establish definite criteria by which to judge an applicant's ability to self-insure.

The Secretary has determined that the existing requirements of New Mexico's Surface Mining Act section 11(B) together with the proposed sections 14–23 and 14–60 of the New Mexico surface mining regulations are no less effective than the Federal regulations at 30 CFR 800.60(d).

III. Public Comments

No comments were received on this amendment.

IV. Secretary's Decision

The Secretary, based on the above findings, is removing condition (j) from the New Mexico State program approval and approving the New Mexico performance bond regulations submitted as an amendment to the New Mexico permanent program with the exception of the phrase "or a separate guarantor" found in sections 14–23 (a) and (b). This phrase is disapproved and must be deleted from the New Mexico regulations. The Federal rules at 30 CFR Part 931 are being amended to implement this decision.

V. Additional Determinations

1. Compliance With the National Environmental Policy Act

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

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

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that the rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 931

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

Dated: July 26, 1984.

Garrey E. Carruthers,

Assistant Secretary, Land and Minerals Management.

PART 931—NEW MEXICO

Part 931 of Title 30 is amended as follows:

1. 30 CFR 931.11 is amended by removing and reserving paragraph (j).

§ 931.11 Conditions of the State program approval.

* * * * *

(j) [Reserved]

2. 30 CFR 931.12 is amended by revising the introductory text and adding a new paragraph (p) to read as follows:

§ 931.12 State program provisions disapproved.

The following provisions referred to in paragraphs (a)–(o) of this section of the New Mexico permanent regulatory program submission are hereby disapproved to the extent indicated in compliance with the February 26, 1980, May 16, 1980, and August 15, 1980 opinions and orders of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144).

* * * * *

(p) The following provisions of the New Mexico permanent regulatory program are hereby disapproved: Sections 14–23(a) and 14–23(b) of the New Mexico regulations are disapproved to the extent that the phrase in the first sentence of each section states, "or a separate guarantor."

3. 30 CFR 931.15 is amended by adding a new paragraph (c) as follows:

§ 931.15 Approval of amendments to State regulatory program.

* * * * *

(c) The following amendments are approved effective August 1, 1984: Revisions to the New Mexico Surface Coal Mining Regulations submitted February 8, 1984: repealing Parts 14, 15, 16, 17 and 18 of Chapter J Bond and Insurance Requirements; withdrawing certain related definitions in Part 1 of Chapter A of Rule 80–1; adding certain other related definitions to Part 1 of Chapter A; adding a new Chapter J Bond and Insurance Requirements to Rule 80–1 consisting of Part 14, with the exception of the phrase "or a separate guarantor" which appears in new Chapter J of 80–1 at sections 14–23(a) and 14–23(b); and, amending the index to Rule 80–1 to reflect the contents of Chapter J.

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

[FR Doc. 84–20345 Filed 7–31–84; 8:45 am]

BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

38 CFR Part 2

Delegations of Authority

AGENCY: Veterans Administration.

ACTION: Final regulation amendments.

SUMMARY: The Veterans Administration is updating its delegations of authority contained in 38 CFR Part 2. The amendments are necessary to bring the delegations up-to-date. In addition, the Administrator is revoking the delegation of authority to the Chief Benefits Director, Deputy Chief Benefits Director, or designee, to establish the maximum

interest rates for VA guaranteed, insured, and direct loans made for homes, condominiums, and manufactured homes. These amendments affect only the internal management of the Veterans Administration.

EFFECTIVE DATE: August 31, 1984.

FOR FURTHER INFORMATION CONTACT: Celia Fasone, Paperwork Management and Regulations Service (731), Veterans Administration, 810 Vermont Avenue NW, Washington, DC 20420; (202) 389-2340.

SUPPLEMENTARY INFORMATION: 38 CFR Part 2 consists of 8 general delegations of authority and cross-references to all delegations of authority located in sections throughout title 38 CFR. This amendment updates §§ 2.1 through 2.8, the general delegations of authority. A following amendment will update the cross-references portion of part 2.

The Administrator is required by sections 1803(c) and 1819(f) of title 38, United States Code, to establish maximum interest rates in accordance with market conditions for VA guaranteed, insured, and direct loans for the purposes of acquiring homes, manufactured homes, or condominiums. In recent years, interest rates for all types of loans have fluctuated considerably based on the availability of funds in the various capital markets. This had required numerous changes in the maximum allowable interest rates for loans for the purposes of acquiring homes and condominiums or manufactured homes.

In 1981, the Administrator determined that it would be more efficient, operationally, to delegate the authority to establish maximum interest rates for the Loan Guaranty program to the Chief Benefits Director, Deputy Chief Benefits Director, or designee.

Since the VA interest rate is no longer set in conjunction with the Department of Housing and Urban Development, the Administrator has decided that the delegation of authority is no longer appropriate and therefore is revoked.

Regulatory Flexibility Act/Executive Order 12291

These amendments have been reviewed pursuant to Executive Order 12291 and have been found not to come within the term "rule" as defined in, and made subject to, that order since this change deals exclusively with a matter concerning internal agency management.

This final regulation also comes within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. Because this regulatory amendment revises rules concerning internal VA management, and only affects the internal operations of the agency, publication in proposed form is considered unnecessary; therefore, the amendment is excepted from the requirement of proposed regulatory development. This change is also not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, because a general notice of proposed rulemaking is not required and will not be published (5 U.S.C. 601(2)).

Catalog of Federal Domestic Assistance Numbers: 64.113, Veterans Housing—Direct Loans and Advances, 64.114, Guaranteed and Insured Loans, and 64.119, Veterans Housing—Mobile Home Loans.

List of Subjects in 38 CFR Part 2

Authority delegations (government agencies).

These amendments are adopted under authority granted the Administrator by sections 210(c), 212(a), 1803(c) and 1819(f) of title 38, U.S.C.

Approved: July 26, 1984.

Harry N. Walters,

Administrator.

PART 2—[AMENDED]

Title 38 CFR Part 2, Delegations of Authority, is amended as follows:

1. Section 2.1(b) is revised to read as follows:

§ 2.1 Delegation of authority to employees to issue subpoenas, etc.

* * * * *

(b) Designated positions: Inspector General, Deputy Inspector General, Assistant Inspector General for Investigation, Deputy Assistant Inspector General for Investigation, General Counsel, Deputy General Counsel, Chairman, Board of Veterans Appeals, Heads of regional offices and centers having insurance activities, regional office activities, or both.

* * * * *

§ 2.4 [Amended]

2. Section 2.4 is amended by changing the title "Civil Service Commission" to "Office of Personnel Management"; and changing the title "Assistant Administrator for Personnel" to "Director, Office of Personnel and Labor Relations".

3. In § 2.5 paragraph (a) is revised and paragraph (c) is added, so that the added and revised material reads as follows:

§ 2.5 Delegation of authority to certify copies of documents, records, or papers in Veterans Administration files.

(a) Persons occupying or acting for the following positions in the Office of the General Counsel are authorized to certify copies of public documents, records, or papers belonging to or in the files of the Veterans Administration for the purposes of 38 U.S.C. 202: General Counsel, Deputy General Counsel, Assistant General Counsel, Deputy Assistant General Counsel, and the District Counsel for Puerto Rico.

* * * * *

(c) The person occupying or acting in the position of Chairman, Board of Veterans Apeals, is authorized to certify copies of decisions, orders, subpoenas, and other documents, records, or papers issued by, belonging to, or in the files of the Board for the purposes of 38 U.S.C. 202. (38 U.S.C. 210(c))

§ 2.6 [Amended]

4. Section 2.6 is amended as follows:

a. In paragraph (a)(6) the words "Memorial Hospital" are changed to "Veterans Memorial Medical Center".

b. In paragraph (b)(1) the word "his" is changed to "his/her".

c. Paragraph (b)(3) is removed.

d. In paragraph (c) the title "Controller" is changed to "Office of Budget and Finance (Controller)" in the title and to "Director, Office of Budget and Finance (Controller)" in the text; and the word "his" is changed to "his/her" in both places it appears in the text.

e. Paragraphs (d) and (e)(5) are revised as set forth below.

f. In paragraph (e)(6) the word "his" is removed.

g. In paragraph (f)(2) the words "he deems" are changed to the word "deemed".

§ 2.6 Administrator's delegations of authority to certain officials (38 U.S.C. 212(a)).

* * * * *

(d) Department heads and staff office directors. Authority is delegated to the head of each department and the director of each staff office, and to any officer or board designated by them, to take appropriate action (other than provided for in paragraph (e)(4)) in connection with the collection of civil claims by the VA for money or property, as authorized in § 1.900, et seq.

(e) * * *

(5) Pursuant to the provisions of the Military Personnel and Civilian Employees' Claim Act of 1964, 31 U.S.C. 3721, as amended, the General Counsel, Deputy General Counsel, Assistant General Counsel (Professional Staff

Group III), Deputy Assistant General Counsel of said staff group, and District Counsel or those authorized to act for them, are authorized to settle and pay a claim for not more than $25,000 made by a civilian officer or employee of the Veterans Administration for damage to, or loss of, personal property incident to his or her service. (Pub. L. 97-226)

* * * * *

§ 2.7 [Amended]

5. Section 2.7 is amended by changing the word "he" to "the Administrator" where it appears in paragraph (a) and (b).

§ 2.8 [Amended]

6. Section 2.8 is amended by changing the title "Chief Data Management Director" to "Director, Office of Data Management and Telecommunications" in paragraph (b).

[FR Doc. 84-20290 Filed 7-31-84; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 262

Records and Information Management Definitions

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule makes minor, nonsubstantive amendments to certain records and information management definitions and adds some new definitions. The purpose of the changes and additions is to standardize these definitions throughout the Postal Service, so that consistent terminology may be used by all postal employees.

EFFECTIVE DATE: August 31, 1984.

FOR FURTHER INFORMATION CONTACT: Sheila Allen, (202) 245-5568.

SUPPLEMENTARY INFORMATION: The Postal Service, which is in the process of reviewing and enhancing its Records and Information Management Program, has determined that all Postal Service employees need to use certain terminology in a consistent fashion. Accordingly, a new glossary of terms has been developed and approved. Some of the terms were considered to be so basic and fundamental to the USPS Records and Information Management Program and its supporting regulations as to be chosen for incorporation into the Code of Federal Regulations. Some of the terms already appear in the current edition of 39 CFR. These have been modified somewhat, but their thrust remains intact. Other terms are appearing for the first time.

List of Subjects in 39 CFR Part 262

Archives and records, Postal Service.

Accordingly, 39 CFR is amended as follows:

In Title 39 CFR, revise Part 262 to read as follows:

PART 262—RECORDS AND INFORMATION MANAGEMENT DEFINITIONS

Sec.

Authority: 39 U.S.C. 401; 5 U.S.C. 552a.

§ 262.1 Purpose and scope.

This part contains the official definition of those basic records and information management terms that are frequently used throughout Postal Service regulations and directives.

§ 262.2 Officials.

(a) *Records Custodian.* The postmaster or other head of a facility such as a postal data center, mailbag depository, management sectional center, district office, or regional headquarters who *maintains* USPS records. Department heads are the custodians of records maintained at Headquarters. Senior medical personnel are the custodians of restricted medical records maintained within Postal facilities. PAR counselors are the custodians of records pertaining to program participants.

(b) *Records Officer.* The official responsible for the retention, security, and privacy of Postal Service records with the power to authorize the disclosure of such records and to order their disposal by destruction or transfer; included is the authority to issue records management policy and to delegate or take appropriate action if that policy is not adhered to or if questions of interpretation or procedure arise.

(c) *Information System Executive.* The Postal Service official who prescribes the existence of and the policies for an information system; usually this is an Assistant Postmaster General.

§ 262.3 Information.

Data combined with the knowledge of its context and having the potential to serve a Postal Service use.

(a) *Sensitive Information.* Information which has been identified by the USPS as *Restricted* or *Critical.*

(1) *Critical Information.* Information that must be available in order that the Postal Service effectively perform its mission and meet legally assigned responsibilities; and for which special precautions are taken to ensure its accuracy, relevance, timeliness and completeness. This information, if lost, would cause significant financial loss, inconvenience or delay in performance of the USPS mission.

(2) *Restricted Information.* Information that has limitations placed upon both its access within the Postal Service and disclosure outside the Postal Service consistent with the Privacy and Freedom of Information Acts.

(i) *Restricted Mandatory.* Information that has limitations upon its internal access and that may be disclosed *only* in accordance with an Executive Order, public law, or other Federal statute and their supporting postal regulations.

(ii) *Restricted Discretionary.* Information that has limitations upon its internal access and that *may* be withheld from external disclosure solely in accordance with postal regulations, consistent with the Freedom of Information Act.

(b) *Classified Information (National Security).* Information about the national defense and foreign relations of the United States that has been determined under Executive Order 12356 to require protection against unauthorized disclosure and has been so designated.

§ 262.4 Records.

Recorded information, regardless of media or physical characteristics, developed or received by the U.S. Postal Service in connection with the transaction of its business and retained in its custody; for machine-readable records, a collection of logically related data treated as a unit.

(a) *Permanent Record.* A record determined by the USPS Records Officer or the National Archives and Records Service as having sufficient historical or other value to warrant continued preservation. (All other records are considered temporary and must be scheduled for disposal.)

(b) *Corporate Records.* Those records series that are designated by the Records Officer as containing information of legal, audit, obligatory or archival value about events and transactions of interest to the entire corporate body of the Postal Service. Corporate records are distinguished from operational records, which have value only in their day-to-day use, and from precedential files, which have value only as examples.

(c) *Active Record.* A record that contains information used for conducting current business.

(d) *Inactive Record.* A record that contains information which is not used for conducting current business, but for which the retention period has not yet expired.

(e) *Vital Records.* Certain records which must be available in the event of a national emergency in order to ensure the continuity of Postal Service operations and the preservation of the rights and interests of the Postal Service, its employees, contractors and customers. There are two types of vital records: Emergency Operating Records and Rights and Interests Records.

(1) *Emergency Operating Records.* Certain vital records necessary to support essential functions of the Postal Service during and immediately following a national emergency.

(2) *Rights and Interest Records.* Certain vital records maintained to ensure the preservation of the rights and interests of the Postal Service, its employees, contractors and customers.

§ 262.5 Systems (Privacy).

(a) *Privacy Act System of Records.* A Postal Service system containing information about individuals, including mailing lists, from which information is retrieved by the name of an individual or by some identifying number or symbol assigned to the individual, such as a Social Security Account Number.

(b) *Individual (Record Subject).* A living person. Does not include sole proprietorships, partnerships or corporations. A business firm identified by the name of one or more persons is not an individual.

§ 262.6 Retention and Disposal.

(a) *Records Control Schedule.* A directive describing records series that are maintained by components of the Postal Service; it provides maintenance, retention, transfer, and disposal instructions for each series listed, and serves as the authority for Postal officials to implement such instructions.

(b) *Disposal (Records).* The permanent removal of records or information from Postal Service custody; included are:

(1) Transfer to the National Archives.

(2) Donation to the Smithsonian Institution, local museums or historical societies.

(3) Sale as waste material.

(4) Discarding.

(5) Physical destruction.

(C) *Retention Period.* The authorized length of time that a records series must be kept before its disposal, usually stated in terms of months or years, but sometimes expressed as contingent upon the occurrence of an event; usually the retention period refers to the period of time between the creation of a series and its authorized disposal date; however, in some cases it refers to the length of time between the cutoff point and the disposal date.

§ 262.7 Non-Records.

(a) *Non-Record Material.* Includes blank forms and surplus publications, handbooks, circulars, bulletins, announcements, and other directives as well as any material not directly associated with the transaction of Postal Service business.

(b) *Personal Papers.* Those materials created or received during an individual's period of employment with the Postal Service which are of a purely private or nonofficial character, or which were neither created nor received in connection with Postal Service business.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-20232 Filed 7-31-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2643-7]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces final approval of the Wisconsin ambient lead standard and lead emission limitations, as a portion of the State Implementation Plan (SIP). In the March 16, 1984 (49 FR 9915), Federal Register, USEPA proposed approval of the State ambient lead standard and lead emission limitations, with the understanding that the State would fulfill its commitment to adopt a reference test method to measure compliance with the standard. No public comments were received by the Agency on this action. Therefore, in today's Federal Register, USEPA approves the Wisconsin ambient lead standard and lead emission limitations because they are consistent with all applicable requirements of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on August 31, 1984.

ADDRESSES: Copies of this revision to the Wisconsin SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, in addition to other materials relating to this rulemaking, are available for inspection at the followng addresses: (It is recommended that you telephone Anne E. Tenner, at (312) 886-6036, before visiting the Region V Office).

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: On October 5, 1978, USEPA promulgated the National Ambient Air Quality Standards (NAAQS) for lead (43 FR 46258). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air ($\mu g/m^3$) maximum arithmetic mean, as averaged over a calender quarter. Section 110(a)(1) of the Act requires each State to submit a SIP which provides for the attainment and maintenance of the primary and secondary NAAQS.

The State of Wisconsin submitted the State's ambient lead standard and associated lead emission limitations to USEPA on July 1, 1983, as a portion of the SIP. Additional material was submitted on October 13, 1983. These rule changes were published in the Wisconsin Administrative Register in April, 1983, took effect on May 1, 1983.

The WDNR Board adopted the ambient lead standard as contained in Rule NR 155.03(7), Lead: Primary and Secondary Standards, of the Wisconsin Administrative Code (WAC), which states:

> The primary and secondary standards for lead and its compounds, measured as elemental lead, are: 1.5 micrograms per cubic meter, maximum arithmetic mean averaged over a calendar quarter, as a constituent of suspended particulate matter.

The WDNR Board also adopted Rule NR 154.145 of the WAC, Control of Lead Emissions, which states:

> (1) *General Limitations:*
>
> No person may cause, allow or permit emissions into the ambient air of lead or lead compounds which substantially contribute to the exceeding of an air standard or increment, or which creates air pollution.

(2) *Lead Limitations:*

No person may cause, allow or permit lead or lead compounds to be emitted to the ambient air in amounts greater than the department may establish by permit condition under S. 144.393(5) or 144.394, Stats., by rule or by special order.

On March 16, 1984 (49 FR 9915), in the **Federal Register**, USEPA proposed approval of the State ambient lead standard and lead emission limitations, with the understanding that the State would fulfill its commitment to adopt a reference test method to measure compliance with the standard. There were no public comments received by the Agency on this action.

On March 14, 1984, on June 4, 1984, and again on June 15, 1984, the State of Wisconsin submitted commitment letters to USEPA stating that the State would revise Rule NR 155.04 of the WAC to include a reference test method for monitoring and analysis of lead, in accordance with 40 CFR Part 50, Appendix G, and as required under 40 CFR Part 58. This rule revision is expected to become effective on February 1, 1985. Prior to the adoption of the test method, the State of Wisconsin will use the reference test method specified under 40 CFR Part 50, Appendix G.

Therefore, USEPA approves the Wisconsin ambient air quality standard for lead (NR 155.03(7)) of the Wisconsin Administrative Code since it is as stringent as the Federal standard and will meet all the applicable Federal requirements. In addition, USEPA approves Rules NR 154.145(1) and NR 154.145(2) of the Wisconsin Administrative Code.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 1, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note—Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of sections 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7061(a)).

Dated: July 26, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Wisconsin

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart YY-Wisconsin, is amended as follows:

1. Section 52.2570 is amended by adding paragraph (c)(34) as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(34) On July 1, 1983, the State of Wisconsin submitted ambient lead standards and lead emission limitations as additions to the State Implementation Plan. The additions consist of NR 155.03(7), Lead: Primary and Secondary Standards, and NR 154.145, Control of Lead Emissions, of the Wisconsin Administrative Code. Supplemental information and commitments were submitted on October 13, 1983, March 14, 1984, June 4, 1984, and June 15, 1984.

* * * * *

[FR Doc. 84-20302 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[Docket No. NH-1497; A-1-FRL-2643-6]

Approval and Promulgation of Implementation Plans; New Hampshire; Sulfur-in-Fuel Revisions for Two Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of New Hampshire. These revisions will change the sulfur-in-fuel limits for two sources from 1.0% sulfur by weight to 2.0% (2.2 pounds of sulfur dioxide per million Btu). These sources were excluded from recent revisions to the statewide sulfur-in-fuel limit because the New Hampshire Air Resources Agency was in the process of amending their operating permits to ensure no violations of the National Ambient Air Quality Standards. The intended effect of this action is to allow these sources to burn the higher sulfur fuel under the statewide regulation.

EFFECTIVE DATE: August 31, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2313, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20408; and the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301.

FOR FURTHER INFORMATION CONTACT: Stephen S. Perkins, (617) 223-4866.

SUPPLEMENTARY INFORMATION: On April 25, 1984 (49 FR 17775) EPA published a Notice of Proposed Rulemaking (NPR) for regulatory changes to the New Hampshire State Implementation Plan. These revisions would allow an increase in the sulfur-in-fuel content from no more than 1.0% sulfur by weight to no more than 2.0% at the following sources:

1. Manchester Steam Station, Public Service Company of N.H., Manchester.
2. Hinsdale Products Co., Inc.

These sources were excluded from recently approved revisions to the statewide sulfur-in-fuel limit. The New Hampshire Air Resources Agency has issued amended permits to these sources to ensure that there will be no violations of National Ambient Air Quality Standards. In each case, increases in existing stack height, operating restrictions, or both, were required.

Neither of these facilities is currently operating. However, both have chosen to retain their operating permits. At Manchester Steam Station, an auxiliary boiler is currently operated in winter to prevent the station from freezing up. The auxiliary boiler is allowed to burn 2.0% sulfur oil as long as the main boilers remain inactive. If either or both main boilers are reactivated, the stacks serving these boilers must be raised to the good engineering practice height of 45 m and the maximum sulfur content of oil burned in any boiler shall not exceed 1.7% by weight. Hinsdale Products has agreed to restrict its maximum hourly fuel firing rate to 213 gallons if it reopens. The rationale for EPA's proposed action is explained in the NPR and will not be restated here.

Final Action

EPA is approving the revisions to burn higher sulfur oil by Manchester Steam Station, Public Service Company of N.H. and Hinsdale Products Co., Inc., which were submitted on January 13, 1984.

Portions of the stack height regulations promulgated on February 8, 1982 (47 FR 5864), on which EPA is

basing its action today, have been overturned by a panel of the U.S. Court of Appeals for the D.C. Circuit. *Sierra Club* v. *EPA*, 719 F.2d 436 (D.C. Cir., 1983). The raising of the height of the stacks at Manchester Steam Station is not inconsistent with that decision. The *de minimis* provision of EPA's stack height regulations (40 CFR 51.1 (ii)(1)(1982)) was not challenged in the Court of Appeals. The maximum height of any of these stacks, after they are raised, will be 45 m, which is 20 m below the *de minimis* stack height in EPA's regulations.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 1, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations. Incorporation by Reference.

Authority: Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 26, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520, paragraph (c) is amended by adding paragraph (31) as follows.

§ 52.1520 Identification of plan

* * * * *

(c) * * *

(31) Revisions raising the allowable sulfur-in-oil limit to 2.0% for two sources excluded from revisions to CHAPTER Air 400, Section 402.02 (identified at paragraph (c)(26) of this section), submitted on January 13, 1984. The two sources, and the source specific restrictions at each, are:

(i) Manchester Steam Station, Public Service Company of N.H., Manchester (The auxiliary boiler is allowed to burn 2.0% sulfur oil as long as the main boilers remain inactive. If either or both of the main boilers are reactivated, the maximum sulfur content of oil burned in any boiler shall not exceed 1.7% by weight. In addition, each main boiler shall not operate until its stack height is increased to 45 m.)

(ii) Hinsdale Products Co., Inc., Hinsdale (Limited to a maximum hourly fuel firing rate of 213 gallons.)

[FR Doc. 84-20303 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Docket No. AM401PA; A3-FRL-2644-2]

Approval and Promulgation of Implementation Plans; Approval of the Philadelphia Portion of the Pennsylvania State Implementation Plan for Lead

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is hereby approving the Philadelphia portion of the Pennsylvania State Implementation Plan (SIP) for the control of Lead (Pb) emissions. Philadelphia's Lead SIP consists of a narrative portion including a control strategy and a Consent Agreement signed by the City and Associated Lead Inc. It meets all of the applicable requirements under section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

EFFECTIVE DATE: August 31, 1984.

ADDRESSES: Copies of the Philadelphia Lead SIP may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency Region III, Air Management Division, Curtis Building—6th and Walnut Streets, Philadelphia, PA 19106, Attn: Eileen M. Glen (3AM11)

Pennsylvania Dept. of Environmental Resources, Bureau of Air Quality Control, Fulton Bank Building, Third and Locust Streets, Harrisburg, PA 17120, Attn: Gary L. Triplett

Philadelphia Department of Public Health, Air Management Services, 500 South Broad Street, Philadelphia, PA 19146, Attn: Robert Ostrowski

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, DC 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen at the EPA Region III address shown above or telephone (215) 597-8379.

SUPPLEMENTARY INFORMATION: On Thursday, December 29, 1983, EPA published a proposed approval of the Pennsylvania State Implementation Plan (SIP) for the attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for Lead in Philadelphia in the **Federal Register** (48 FR 57328).

From the data submitted by the Philadelphia Air Management Services (AMS), it was determined that all monitoring stations, except for the one located at the Aramingo Avenue Fire Station, were in compliance with the NAAQS for Lead. The Aramingo Fire Station (AFS) monitor had shown only one violation of the NAAQS for Lead from the 1st Quarter 1980 thru the 2nd Quarter 1983. This violation ($1.57\mu g/m^3$) was only slightly over the standard ($1.5\mu g/m^3$). However, in the 3rd Quarter 1983 there was a significant violation ($3.66\mu g/m^3$) and the readings at the AFS site have consistently been in violation of the NAAQS for lead from the 3rd Quarter of 1983 to present.

The most significant stationary source of ambient lead emissions in the vicinity of the AFS monitor is Associated Lead (AL), a producer of lead stabilizers, which operates a facility at 2545 Aramingo Avenue. Representatives of AL met with EPA and Philadelphia AMS personnel to decide what measures had to be taken to bring the area into compliance. As the result of several meetings, an administrative agreement between AL and the City of Philadelphia was signed.

A summary of the vital points in that agreement is given below:

1. AL agreed to employ the use of Reasonably Available Control Technology (RACT). This consists of continued use and maintenance of fabric filters and existing hoods and fans as well as the inspection and maintenance of all control equipment, roof areas, and other potential fugitive emission areas. The inspection and maintenance practices will be carried out on a periodic basis in accordance with the schedule contained in Exhibit A to the Consent Agreement.

2. By November 11, 1985, AL will install detectors with sound alarms at six (6) specified process emission points.

Also an alarm system is to be installed on all high load equipment equipped with bolometers, within this same time frame. When the sound alarm is activated, e.g., by the failure or diminished capability of a control system, the operator of that process must immediately take the necessary steps to shut that process down. The process shall remain "down" until appropriate corrective measures have been taken.

3. On or before September 30, 1984, AL shall submit an inventory of all processes and emission points for each process. This inventory will identify:

a. Any pollution control equipment on that process.

b. The date of the most recent stack test.

c. The emission rate in pounds per hour.

4. Commencing on or before September 30, 1984 and continuing until September 30, 1985 AL shall;

a. Install and operate a monitoring site for measuring wind speed and direction at its facility.

b. Monitor Lead levels on a daily basis at three specific locations.

5. On or before December 31, 1984, AL will select the control measures necessary for each process mentioned in the inventory. EPA and Philadelphia AMS will approve or disapprove these selections by March 31, 1985. If any control measures are disapproved AMS will specify the control measures to be employed and the implementation date. No implementation date shall be later than August 1, 1987.

6. On or before September 30, 1985, AL will undertake a study designed to evaluate present Lead emission sources, and to identify those areas to which additional control measures may be applicable.

7. AL agreed to supply the City with any reasonable assistance or data needed to support a modeling study.

All precision monitoring has been conducted as required by 40 CFR Part 58, Appendix A. EPA has examined the air quality data from all monitoring sites and found it to be in accordance with EPA monitoring requirements for data used in developing a SIP.

Furthermore, the City currently has regulations which set forth procedures to review the lead emitting potential of all new or modified sources as required by 40 CFR 52.10 and 52.21.

Public Hearing

A public hearing on the Philadelphia Lead SIP was held on June 15, 1983. A summary of the comments was submitted by the State, with the AMS responses to the comments.

Solicitation of Public Comments

In a **Federal Register** notice [48 FR 57328] published December 29, 1983, a 30 day public comment period was announced. No public comments were received.

EPA Action

EPA has reviewed Philadelphia's Lead SIP and has determined that it meets the scope and intent of 40 CFR 51.80 through 51.88 (Control Strategy-Lead). Therefore, EPA is approving Philadelphia's Lead SIP.

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 this action only approves State actions and imposes no new requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur Oxide, Nitrogen Dioxide, Lead, Particulate Matter, Carbon Monoxide, Hydrocarbons and Intergovernmental Relations, Incorporation by Reference.

Authority: Secs. 110 and 301 of the Clean Air Act as amended (42 U.S.C. 7410 and 7601).

Dated: July 26, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the Implementation Plan for the Commonwealth of Pennsylvania was approved by the Director of the Office of the Federal Register on July 1, 1982.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

In § 52.2020, paragraph (c)(61) is added to read as follows:

§ 52.2020 Identification of Plan

* * * * *

(c) * * *

(61) A State Implementation Plan for the control of lead (Pb) emissions in Philadelphia was submitted on August 29, 1983 and May 15, 1984 by the Secretary of the Pennsylvania Department of Environmental Resources.

[FR Doc. 84-20299 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-9-FRL-2643-8]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Arizona

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rulemaking.

SUMMARY: This notice takes final action to redesignate the Page, Arizona nonattainment area to attainment for total suspended particulate (TSP). Today's action responds to a request for redesignation by the Arizona Department of Health Services under paragraph 107(d)(5) of the Clean Air Act.

DATE: This action is effective August 31, 1984.

ADDRESSES: Copies of the public comments and EPA's Technical Support Document are available for public inspection during normal business hours at the EPA Region 9 office in San Francisco and at the following locations:

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007

Coconino County Air Pollution Control District, 2500 North Valley Road, Flagstaff, AZ 86001.

FOR FURTHER INFORMATION CONTACT: Thomas Rarick, Chief, State Implementation Plan Section (A-2-3), Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641; FTS: 454-7641.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 1983 the Arizona Department of Health Services (ADHS) requested that EPA redesignate the Page area in Coconino County to attainment for TSP. The request is based on ambient air quality data which shows no violations of the National Ambient Air Quality Standards since 1977.

Under paragraph 107(d)(5) of the Clean Air Act, a state may revise its attainment status designations and submit them to EPA for consideration and promulgation. In general, eight quarters of violation-free air quality data plus evidence of an EPA approved control strategy are necessary in order

for an area to be redesignated from nonattainment to attainment. However, EPA policy allows for an attainment designation when the only monitored violations were due to temporary emissions sources or infrequently occurring natural phenomena.

In a notice of proposed rulemaking published November 7, 1983 (48 FR 51160), EPA invited public comment on its intention to approve the request to redesignate the Page area to attainment for TSP. Several comments were received. A summary of the public comments and EPA's response are provided in the Technical Support Document.

EPA Action

EPA has reviewed the redesignation requested by the ADHS and has determined that it should be approved. As indicated in the November 7, 1983 proposal notice, the redesignation of the Page nonattainment area for TSP to attainment is based on: (a) no measured violations since 1977 and (b) the belief that the violations recorded in 1976 and 1977 should not be considered since they appear to have been due to temporary construction activity and unusually high winds.

Regulatory Process

Under the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 1, 1984. This action may not be challenged later in proceedings to enforce its requirements.

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

Authority: Sections 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, National parks, Wilderness areas.

Dated: July 26, 1984.

William D. Ruckelshaus,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. In § 81.303 Arizona, the TSP attainment status designation table is amended by revising the designation for Page, T41N, R9E as follows:

§ 81.303 Arizona.

ARIZONA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * *				
Page: T41N, R9E				X
* * * * *				

* * * * *

[FR Doc. 84-20301 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[TN-016; AD-4-FRL-2640-5]

Designation of Areas for Air Quality Planning Purposes; Tennessee; Redefinition of TSP and SO_2 Attainment Areas

Correction

In FR Doc. 84-19872, beginning on page 30185 in the issue of Friday, July 27, 1984, make the following changes:

1. On page 30185, the docket number was incomplete and the FRL number is added as set forth above.

2. On the same page, in column 3, the **EFFECTIVE DATE** paragraph should read:

EFFECTIVE DATE: This action will be effective on September 25, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

BILLING CODE 1505-01-M

40 CFR Part 147

[OW-FRL-2627-5]

Rhode Island Department of Environmental Management Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Rhode Island has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, II, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program meets the requirements of Section 1422 of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This approval shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on August 15, 1984. This approval shall become effective on August 15, 1984.

FOR FURTHER INFORMATION CONTACT: Jerome J. Healey, Water Supply Branch, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203. PH: (617) 223-6486.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the Federal Register each State for which, in his judgment, a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Rhode Island was listed as needing a UIC program on March 19, 1980 (45 FR 17632). The State submitted an application under Section 1422 on March 23, 1984, for a UIC program to be administered by the Rhode Island Department of Environmental Management (RIDEM). On April 27, 1984, EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the RIDEM (49 FR 18129). Neither requests

for public hearing nor requests to offer testimony at such hearings were received by EPA. Therefore, pursuant to the provisions of 40 CFR 145.31(c), the public hearing was cancelled because of lack of sufficient public interest.

After careful review of the application, I have determined that the Rhode Island UIC program submitted by the RIDEM to regulate Classes I, II, III, IV, and V injection wells meets the requirements established by the Federal regulations pursuant to Section 1422 of the SDWA and, hereby approve it. The effect of this approval is to establish this program as the applicable underground injection control program under the SDWA for the State of Rhode Island.

This approval will be codified in 40 CFR 147.2000. State statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators are incorporated by reference. These provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, are enforceable by EPA pursuant to section 1423 of the SDWA.

On May 11, 1984, EPA proposed a Federally administered UIC program for the State of Rhode Island (49 FR 20238). Approval of the State-administered program withdraws the proposed EPA-administered program (§ 147.2001).

Since this approval, in large part, simply approves as the Federal UIC program State regulations and requirements already in effect under State law, EPA is publishing this approval effective two weeks after the date of publication in the **Federal Register**. This will enable Rhode Island to begin issuing UIC permits for injection wells under the Federally approved program at the earliest possible date.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 147

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

OMB Review

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Rhode Island Department of Environmental Management will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: July 18, 1984.

William D. Ruckelshaus,

Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

PART 147—STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Subpart OO—Rhode Island

Amend 40 CFR Part 147 by revising § 147.2000 to read as follows:

§ 147.2000 State-administered program—Class I, II, III, IV, and V wells.

The UIC program for Class I, II, III, IV, & V wells in the State of Rhode Island is the program administered by the Rhode Island Department of Environmental Management, approved by EPA pursuant to section 1422 of the SDWA. Notice of this approval was published in the **Federal Register** on August 1, 1984; the effective date of this program is August 15, 1984. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Rhode Island. This incorporation by reference was approved by the Director of the Federal Register effective August 15, 1984.

(1) Rhode Island Gen. Laws §§ 46–12–1, 46–12–5, and 46–12–28 (Supp. 1983);

(2) "Underground Injection Control Program Rules and Regulations." State of Rhode Island and Providence Plantations Department of Environmental Management. Division of Water Resources (as received by the Secretary of State, May 21, 1984).

(b) *Other Laws.* The following statutes and regulations although not incorporated by reference, also are part of the approved State-administered program:

(1) Rhode Island General Laws, Section 10–20–1 *et seq.*, entitled "State Environmental Rights";

(2) Rhode Island General Laws, Section 23–19.1–1 *et seq.*, entitled "Hazardous Waste Management";

(3) Rhode Island General Laws, Section 42–17.1 *et seq.*, entitled "Department of Environmental Management";

(4) Rhode Island General Laws, Section 42–35–1 *et seq.*, entitled "Administrative Procedures";

(5) Rhode Island General Laws, Section 46–12–1 *et seq.*, entitled "Water Pollution";

(6) Hazardous Waste Management Facility Operating Permit Rules and Regulations—Landfills, at last amended November 2, 1981 (hereinafter referred to as the "Hazardous Waste Regulation");

(7) Water Quality Regulations for Water Pollution Control, effective November 19, 1981; and

(8) Administrative Rules of Practices and Procedure for Department of Environmental Management, effective November 12, 1980.

(c) (1) The Memorandum of Agreement between EPA Region I and the Rhode Island Department of Environmental Management, signed by the EPA Regional Administrator on March 29, 1984;

(2) Letter from Director, Rhode Island Department of Environmental Management, to Regional Administrator, EPA Region I, amending Section III, C of the Memorandum of Agreement, April 25, 1984.

(d) *Statement of Legal Authority.* Letter from Attorney General, State of Rhode Island and Providence Plantations, to Regional Administrator, EPA Region 1, "Re: Attorney General's Statement, Underground Injection Control Program," January 17, 1984.

(e) The Program Description and any other materials submitted as part of the original application or as supplements thereto.

[FR Doc. 84–19481 Filed 7–31–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 6E1699/R684; FRL–2638–5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Dimethyl Tetrachloroterephthalate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide dimethyl

tetrachloroterephthalate and its metabolites in or on the raw agricultural commodities radish roots and radish tops. This regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on August 1, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192)

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of May 23, 1984 (49 FR 21768), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 6E1699 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Stations of California and Oklahoma. The petition requested the establishment of tolerances for the combined residues of the herbicide dimethyl tetrachloroterephthalate and its metabolites monomethyl tetrachloroterephthalate and tetrachloroterephthalic acid (calculated as dimethyl tetrachloroterephthalate) in or on the raw agricultural commodities radish roots at 2.0 parts per million (ppm) and radish tops at 5 ppm. The petition was later amended to propose tolerances for radish roots at 2.0 ppm and radish tops at 15 ppm.

There were no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Dimethyl tetrachloroterephthalate is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objection. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

List of Subjects in 40 CRF Part 180

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

Dated: July 12, 1984.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.185 is amended by adding and alphabetically inserting the raw agricultural commodities radish roots and radish tops, to read as follows:

§ 180.185 Dimethyl tetrachloroterephthalate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Radish, roots	2.0
Radish, tops	15.0
* * * * *	

[FR Doc. 84–19742 Filed 7–31–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 3E2967/R685; FRL–2638–6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Hexakis[2-Methyl-2-Phenylpropyl]Distannoxane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide hexakis[2-methyl-2-phenylpropyl]distannoxane and its organotin metabolites calculated as hexakis[2-methyl-2-phenylpropyl]distannoxane in or on the raw agricultural commodity eggplant. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on August 1, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192)

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of May 30, 1984 (49 FR 22500), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 3E2967 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Stations of Florida and New York. The petition requested the establishment of a tolerance for the combined residues of the insecticide hexakis[2-methyl-2-phenylpropyl]distannoxane and its organotin metabolites calculated as hexakis[2-methyl-2-phenylpropyl]distannoxane in or on the raw agricultural commodity eggplant at 6.0 parts per million (ppm).

There were no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Hexakis[2-methyl-2-phenylpropyl]distannoxane is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the

issues for the hearing and the grounds for the objection. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated: July 12, 1984.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.362 is amended by adding, and alphabetically inserting, the raw agricultural commodity eggplant to read as follows:

§ 180.362 Hexakis [2-methyl-2-phenylpropyl]distannoxane; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Eggplant	6.0
* * * * *	

[FR Doc. 84-19741 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2651/R669; FRL-2638-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Imazalil; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects tolerances for the combined residues of the fungicide imazalil and its metabolite in or on certain raw agricultural commodities.

EFFECTIVE DATE: Effective on August 1, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 229, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1900)

SUPPLEMENTARY INFORMATION: In FR Doc. 84-15286, appearing in the **Federal Register** of June 13, 1984 (49 FR 24376), incorrect entries for the commodities Barley, Straw and Wheat, straw were given in an amendment to 40 CFR 180.413. The preamble of the document stated the correct entries, 2.0 parts-per-million tolerances, but the entries in the amendment were given as 0.05 part per million. This document corrects the error.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

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

Dated: July 17, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.413(a) is corrected in the entries for Barley, Straw and Wheat, straw to read as follows:

§ 180.413 Imazalil; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Barley, straw	2.0
* * * * *	
Wheat, straw	2.0
* * * * *	

[FR Doc. 84-19743 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2895/4E2973/R683; FRL-2639-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Norflurazon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide norflurazon and its metabolite in or on the raw agricultural commodities blackberries, blueberries, and raspberries. This regulation to establish a maximum permissible level for residues of the herbicide in or on the commodities was requested pursuant to petitions submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on August 1, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Officer location and telephone number: Rm. 716B, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of May 23, 1984 (49 FR 21769), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Arkansas, Michigan, Minnnesota, New Jersey, Oregon, Virginia and Washington and the United States Department of Agriculture (PP 3E2895) and Minnesota, Oregon, and Virginia (PP 4E2973). The petitions requested the establishment of tolerances for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone and its desmethyl metabolite 4-chloro-5(amino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone in or on the raw agricultural commodities blackberries and raspberries at 0.1 part per million (ppm) (PP 4E2973) and blueberries at 0.2 ppm (PP 3E2895).

There were no comments received in response to the proposed rule.

The data submitted in the petitions and other relevant material have been evaluated and discussed in the proposed rule. Norflurazon is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register** file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the

issues for the hearing and the grounds for the objection. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated: July 12, 1984.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.356(a) is amended by adding and alphabetically inserting the raw agricultural commodities blackberries, blueberries, and raspberries to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Blackberries	0.1
Blueberries	0.2
* * * * *	
Raspberries	0.2
* * * * *	

[FR Doc. 84-19876 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

21 CFR Part 193

[FAP OH6263/R688; FRL-2638-7]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Ethephon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a food additive regulation for the plant growth regulator ethephon in or on sugarcane molasses. This regulation is extended in conjunction with an experimental use permit requested by Union Carbide to permit the continued marketing of sugarcane molasses while further data are collected on ethephon.

EFFECTIVE DATE: Effective on August 1, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 211, CM #2, Registration Division (TS-767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800)

SUPPLEMENTARY INFORMATION: EPA issued a regulation, published in the **Federal Register** of March 12, 1981 (46 FR 16256), establishing a regulation permitting the residues of the plant growth regulator ethephon [(2-chloroethyl)phosphonic acid] in sugarcane molasses with a tolerance limitation of 7 parts per million (ppm), resulting from the application of ethephon to growing sugarcane in conjunction with an experimental use program.

In the **Federal Register** of July 28, 1982 (47 FR 32525), at the request of Union Carbide Agricultural Products Co., P.O. Box 12014, T.W. Alexander Dr., Research Triangle Park, NC 27799, EPA renewed this regulation to expire July 16, 1984. At the request of Union Carbide, EPA is extending this regulation to expire July 16, 1986.

The metabolism of ethephon is adequately understood, and an adequate analytical method is available for enforcement purposes. The pesticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973; 7 U.S.C. 136 *et seq.*). Therefore, the regulation is extended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objection should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: July 12, 1984.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore, 21 CFR 193.186(b) is amended by extending the expiration date, to read as follows:

§ 193.186 Ethephon.

* * * * *

(b) * * *

Foods	Parts per million	Company	Expiration date
* * * * *			
Sugarcane, molasses.	7.0	Union Carbide	July 16, 1986.
* * * * *			

[FR Doc. 84-19740 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Nurse Practitioner Traineeship Programs

AGENCY: Public Health Service, HHS.

ACTION: Interim Final Regulations.

SUMMARY: These regulations set forth requirements for grants to schools of nursing, medicine, and public health, to public or nonprofit private hospitals, and to other public or nonprofit private entities to meet the costs of traineeships for training nurse practitioners. A trainee must sign a commitment with the Secretary to practice full-time as a nurse

practitioner in a primary medical care health manpower shortage area, designated under section 332 of the Public Health Service Act (the Act), for a period equal to 1 month for each month of traineeship support, after completion of the training. If this obligation is not fulfilled, a trainee must pay back traineeship support. The purpose of these regulations is to respond to the comments on the 1980 interim final regulations and to conform 42 CFR Part 57, Subpart AA, with the Paperwork Reduction Act of 1980, Pub. L. 96–511, and with the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, which requires, among other provisions, that the Secretary provide, by regulation, for the waiver or suspension of the repayment obligation under certain conditions. In addition, other minor changes have been made and Office of Management and Budget (OMB) numbers are cited in those sections which have approved reporting and recordkeeping requirements.

DATES: These regulations are effective August 1, 1984. As discussed below, comments must be received on or before October 1, 1984 in order to be considered.

ADDRESS: Written comments may be addressed to the Director, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–05, Rockville, Maryland 20857. All comments received will be available for public inspection and copying (at a minimal charge) at the above address (Federal holidays excepted) between the hours of 9:30 a.m. and 3:30 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Ms. Jo Eleanor Elliott, Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 5C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number 301 443–5786.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 6, 1980 (45 FR 29803), the Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, added a new Subpart AA to Part 57 of Title 42 of the Code of Federal Regulations, entitled "Grants for Nurse Practitioner Traineeship Programs."

Although proposed rulemaking procedures were omitted, interested persons were invited to submit comments about the 1980 interim final regulations on or before July 7, 1980. Four responses were received. A discussion of these comments, the Secretary's response to these comments, and an explanation of other changes are set forth below. For clarity, the comments, responses and changes, where appropriate, are arranged according to the section number and titles of the regulations to which they pertain.

The new section numbers of these regulations are listed after those of the 1980 interim final in each title.

§ 57.2601 (§ 57.2601) To what programs do these regulations apply?

One respondent objected to the limitation of grant support to nurse practitioner training programs and pointed out that many physician assistants practice in underserved areas. While the Secretary agrees that physician assistants play an important role in delivering primary care health services, section 822(b) of the Act limits grant assistance to nurse practitioner programs.

§ 57.2602 (§ 57.2602) Definitions

The definition of "school of nursing" raised a question from one respondent who asked how schools of nursing which offer basic nursing programs can provide advanced nurse practitioner training. The regulations, in accordance with the authorizing statute, provide that any public or private nonprofit entity which offers a full-time educational program that meets the guidelines prescribed by the Secretary in 42 CFR Part 57, Subpart Y, Appendix, is *eligible* to receive grant funds under section 822(b) of the Act. However, according to §57.2604 of these regulations the Secretary will make awards to those entities with programs that *best* promote the purposes of section 822(b) of the Act.

§ 57.2604 How to apply for a grant.

This section has been deleted because its provisions are more appropriately contained in application materials.

§ 57.2605 (§ 57.2604) How will applications be evaluated?

The 1980 interim final regulations give first preference to approved applications from schools of nursing which award academic credit to students who complete the program and second preference to approved applications from entities other than schools of nursing which award academic credit to students who complete the program.

One respondent questioned the funding preference given to approved applications from training programs which offer academic credit. The respondent questioned the adequacy of the clinical preparation offered by schools of nursing and noted that the majority of active nurse practitioners have been trained in certificate programs rather than academic credit programs.

The Secretary has retained the funding preferences because all eligible programs must meet the "Guidelines for Nurse Practitioner Training Programs," 42 CFR Part 57, Subpart Y, Appendix, which require adequate clinical practice facilities and resources. More nurse practitioners have been trained in certificate programs than in academic credit programs because nurse practitioner programs originated in institutions which provided nurse practitioner training as continuing education and which awarded certificates. Many of these programs now also offer academic credit for nurse practitioner training in addition to certificates. The Secretary maintains that the superior training in the physical and behavioral sciences which academic programs provide will enhance the ability of their trainees to adapt to changes in primary health care.

In addition, the regulations have been revised to comply with an amendment made to section 882(b) by Pub. L. 97–35, which requires the Secretary to give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332 of the Act.

§ 57.2610 (§ 57.2609) Who is eligible for financial assistance as a trainee?

§ 57.2610(c) of the 1980 interim final regulations is deleted since Pub. L. 97–35 amends the Act to remove residency in a health manpower shortage area as an eligibility requirement. However, § 57.2610(d) of the interim final regulations, which requires trainees to sign a commitment to practice as a nurse practitioner in primary medical care health manpower shortage area, remains in § 57.2609(d) of these regulations. Section 57.2609(c), which states that to be eligible for a traineeship an individual must not be receiving concurrent support for the same training from another Federal source, except education benefits under the Veteran's Readjustment Benefits Act, has been added. This addition not only conforms § 57.2609(c) to the standard grants management provision but also avoids conflicts in the event other Federal sources would also include some type of commitment or pay back requirement that would interfere with the commitment made to the Secretary.

§ 57.2611 (§ 57.2610) What are the requirements for traineeships and the appointment of trainees?

Pub. L. 97–35 requires the Secretary to give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332 of the Act. Since grants are made to institutions and the institutions allocate the traineeships to individuals, the legislation will be implemented by requiring that the grantee give priority, in the allocation of traineeships, to individuals from health manpower shortage areas designated under section 332 of the Act. This requirement has been added at § 57.2610(d).

In compliance with the Paperwork Reduction Act of 1980, § 57.2611(b) of the 1980 interim final regulations has been deleted. The section had required that a trainee agree to respond to communications from the Department in regard to his or her professional activities for 5 years after training.

§ 57.2614 (§ 57.2613) What must a trainee agree to do in return for traineeship support?

Pub. L. 97–35 amends section 822(b)(3) of the Act by specifying the duration of practice to be a period equal to 1 month for each month for which the recipient received a traineeship. Therefore, § 57.2614(b) has been revised. In the 1980 interim final regulations the period for which a trainee agreed to practice was equal to 12 months for each academic year for which the trainee received support.

Some traineeship recipients informed the Secretary that they were not able to begin practice within 3 months of completing the training program as required by § 57.2614(c) of the 1980 interim final regulations, because of their need to gain certification.

The Secretary understands that Nurse Practice Acts vary from State to State in regard to expanded nursing practice and, in addition, that there is further variation among States in the certification process. Some States certify through the State Board of Nursing, others through the State Board of Medicine, and others through such Boards in conjunction with one another. Further, some States require certification by a national certifying agency such as the American Association of Nurse Anesthetists, the American College of Nurse Midwives, the American Nurses Association, or the National Association of Pediatric Nurse Associates and Practitioners.

No change was made in the requirement that a trainee must begin practice within 3 months of completing the training program. The Secretary expects trainees to initiate the process of certification within the first month after completion of the program and if more than 3 months are needed to acquire certification for practice, the trainee may request a suspension of the commitment to practice as set forth in § 57.2615(a).

Another respondent discussed the difficulties which trainees may encounter in securing employment as a nurse practitioner in a facility located in a shortage area. The respondent suggested revising the regulations to satisfy the practice obligation by allowing practice in a facility located in an undesignated area but which provides care to patients from underserved areas. The regulations establishing criteria for designating health manpower shortage areas (42 CFR Part 5) already provide for the designation of geographic areas, population groups, and health care facilities. No change in this respect has been made in the regulations since care to patients from underserved areas, designated by section 332 of the Act as being short of primary medical care health manpower, does satisfy the practice commitment. In addition, a trainee having difficulty securing employment may seek a waiver or suspension under § 57.2615, which has been expanded to cover inability to obtain employment.

§ 57.2615 (§ 57.2614) What are the consequences if the trainee fails to comply with the terms of the commitment?

In accordance with Pub. L. 97–35, this section has been amended to provide for repayment by traineeship recipients who fail to complete the training and for those who fail to start or complete the period of practice. A trainee who is dismissed from the academic program or who voluntarily terminates training must repay the traineeship support to the United States Treasury. An individual who received a traineeship and completed the training program but who fails to complete a service obligation must repay the traineeship support plus interest to the United States Treasury.

§ 57.2616 (§ 57.2615) When can the practice or payment obligations be waived or suspended?

As amended by Pub. L. 97–35, the statute requires that the Secretary, by regulation, provide for the waiver or suspension of any repayment obligation incurred as a result of failing to complete the training or failing to complete a service obligation, whenever compliance is impossible or would involve extreme hardship to the individual and if enforcement of this obligation with respect to any individual would be against equity and good conscience. This section has been revised to allow the conditions which in the 1980 interim final regulations qualified only for suspension, to be considered as a basis for waiver.

Death or permanent disability as conditions for waiver have not been altered. The extent to which a trainee has problems of a personal nature, due to circumstances beyond the individual's control which prevent the trainee from performing the obligation incurred, or the extent to which the trainee has made unsuccessful but good faith efforts to fulfill employment requirements, may provide a basis for waiver or suspension. In determining good faith efforts, the Secretary will require verification of the circumstances leading to the placement and actual employment of the trainee.

Waivers will not be granted of any obligation to repay training costs unless repayment would impose an extreme financial hardship. The trainee's inability to find employment as a nurse practitioner, either in a health manpower shortage area or elsewhere, will not be considered an extreme financial hardship. All financial resources of the trainee shall be taken into account in determining financial hardship.

§ 57.2618 What other recordkeeping, audit, and inspection requirements apply to grantees?

The 1980 interim final regulations inadvertently applied the requirements of section 705 of the Act to this program. These requirements apply only to programs authorized under Title VII of the Act. Since grants for nurse practitioner traineeship programs are authorized under Title VIII, only 45 CFR Part 74 (Administration of Grants) applies to these grantees insofar as audit and inspection requirements are concerned. Consequently, § 57.2618 of the interim final regulations has been deleted.

Public Participation

The Secretary has determined that good cause exists for omitting Notice of Proposed Rulemaking procedures. The revisions to the 1980 interim final rule, with the exception of § 57.2615, are technical or mondiscretionary changes to conform the regulations to the

requirements of Pub. L. 96–511, Pub. L. 97–35, and standard grants management provisions.

Section 57.2615 of the regulation incorporates the statutory standard, as set out in section 2755(b)(2) of Pub. L. 97–35, for granting trainees waivers and suspensions of their practice of financial obligations. In addition, § 57.2615 specifies the factors which the Secretary will consider in determining whether to grant such a waiver or suspension. With respect to suspension, these factors are identical to the factors listed in § 57.2616 of the 1980 iterim final rule, however, these factors have been expanded upon from the 1980 rule, with respect to waivers.

In authorizing the Secretary to consider these factors with respect to both suspension and waiver determinations, this regulation expands the conditions under which a waiver may be granted. Because § 57.2615 represents a relaxation of the current waiver provision, the Secretary has determined that a delay in the implementation of this regulation, in order to allow public participation, would have an adverse impact on the individuals most directly affected.

Currently, there are approximately 20 individuals who have not been able to fulfill their practice obligations. The Secretary is aware that some of these individuals have compelling reasons for requesting a waiver (e.g., economic hardship, personal and family distress, unavoidable family obligations to reside in an area with no appropriate employment opportunities). However, no relief may be provided these individuals until the new, more liberalized conditions for waivers are finalized. Therefore the Secretary has concluded that it would be contrary to the public interest to delay the implementation of these regulations.

Notwithstanding the omission of proposed rulemaking procedures, interested persons are invited to submit written comments on these regulations to the Director of the Bureau of Health Professions at the address give above. All relevant material received not later than 60 days after publication of these regulations in the **Federal Register** will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received, and final regulations will be published in the **Federal Register**.

Paperwork Reduction Act of 1980

The Department is required under the Paperwork Reduction Act of 1980 to submit to the Office of Management and Budget (OMB) for review and approval the following sections of the regulations which deal with reporting and/or recordkeeping requirements. Section 57.2610 which requires the grantee to make each trainee sign a commitment to work as a nurse practitioner in a designated shortage area and to retain the statement of appointment for three years; section 57.2613 which requires that the trainee sign a commitment to practice following completion of training and to keep the Secretary informed of changes of name and address and place of employment until traineeship obligations are met; and section 57.2615 which requires the trainee to request application for a waiver or suspension of payment and to supply documentation as needed. These sections were submitted as required, approved and assigned OMB control number 0915–0083.

No grant cycle is proposed for Fiscal Year (FY) 1984. The application forms and instructions for this grant program would be subject to approval by OMB if a future grant cycle is planned.

Regulatory Flexibility Act and Executive Order 12291

The requirements of the Regulatory Flexibility Act of 1980 do not apply to these regulations since the interim final regulations were published prior to January 1, 1981, the effective date of the Act.

The Department has also determined that a regulatory impact analysis is not required under E.O 12291, because any cost will not approach the threshold criteria for a major rule. Since 1978, awards under this program have totalled less than $4 million. Further there were no grant cycles in FY 1982 and 1983, and none is anticipated in 1984.

List of Subjects in 42 CFR Part 57

Grant programs—nursing, Health manpower shortage area, Health professions, Medical and dental schools, Nursing advanced training, Nurse practitioner, Nurse practitioner traineeship program, Primary care health manpower shortage area, Student aid.

Accordingly, Subpart AA of 42 CFR Part 57 is revised and adopted as set forth below:

Dated: February 27, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: June 29, 1984.

Margaret M. Heckler,

Secretary.

(*Catalog of Federal Domestic Assistance*, No. 13.298, Nurse Practitioner Traineeships)

Subpart AA—Grants for Nurse Practitioner Traineeship Programs

Sec.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 822(b) of the Public Health Service Act, 91 Stat. 393; as amended by 95 Stat. 930 (42 U.S.C. 296m).

Subpart AA—Grants for Nurse Practitioner Traineeship Programs

§ 57.2601 To what programs do these regulations apply?

These regulations apply to grants awarded to schools of nursing, medicine, and public health or nonprofit private hospitals, and other public or nonprofit private entities to meet the costs of traineeships under section 822(b) of the Public Health Service Act.

§ 57.2602 Definitions.

"Act" means the Public Health Service Act, as amended.

"Health manpower shortage area" means a geographic area, population group, public or nonprofit private medical facility, or other public facility which has been determined by the Secretary to have a shortage of health manpower under section 332 of the Act and its implementing regulation (43 CFR Part 5).

"National of the United States" means a citizen of the United States or a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in 8 U.S.C. 1101(a)(22), the Immigration and Nationality Act).

The term "nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Nurse practitioner" means a registered nurse who has successfully completed a formal program of study designed to prepare registered nurses to perform in an expanded role in the delivery of primary health care, including the ability to:

(a) Assess the health status of individuals and families through health and medical history taking, physical examination, and defining health and developmental problems;

(b) Institute and provide continuity of health care to clients (patients), work with the client to insure understanding of and compliance with the therapeutic regimen within established protocols, and recognize when to refer the client to a physician or other health care provider;

(c) Provide instruction and counseling to individuals, families, and groups in the areas of health promotion and maintenance, including involving these persons in planning for their health care; and

(d) Work in collaboration with other health care providers and agencies to provide and, where appropriate, coordinate services to individuals and families.

"Nurse practitioner training program" means a full-time educational program for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meets the guidelines prescribed by the Secretary in 42 CFR Part 57, Subpart Y, Appendix. The objective of this program is the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in this program, be qualified to perform effectively in an expanded role in the delivery of primary health care, including care in homes, in ambulatory and long-term care facilities, and in other health care institutions.

"Primary health care" means care which may be initiated by the client or provider in a variety of settings and which consists of a broad range of personal health care services, including:

(a) Promotion and maintenance of health;

(b) Prevention of illness and disability;

(c) Basic care during acute and chronic phases of illness;

(d) Guidance and counseling of individuals and families; and

(e) Referral to other health care providers and community resources when appropriate.

"School of medicine" or "school of public health" means a school of medicine or school of public health as defined in section 701(4) of the Act.

"School of nursing" means a collegiate, associate degree, or diploma school of nursing, as defined in section 853 of the Act.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"Trainee" means a student who is receiving a traineeship from a grant under this subpart.

§ 57.2603 Who is eligible to apply for a grant?

Any school of nursing, medicine, or public health, public or nonprofit private hospital or other public or nonprofit private entity which is located in a State and which provides a nurse practitioner training program is eligible to apply for a grant.

§ 57.2604 How will applications be evaluated?

(a) The Secretary will approve projects which will best promote the purpose of section 822(b) of the Act. The Secretary will take into consideration, among other factors:

(1) The adequacy of the qualifications and experience of the program director, staff and faculty to carry out the program;

(2) The administrative and managerial ability of the applicant to carry out the proposed project; and

(3) The extent to which the applicant will recruit trainees who are residents of health manpower shortage areas.

(b) In determining priority for funding applications approved under paragraph (a) of this section, the Secretary will give first preference to applications which provide nurse practitioner training in schools of nursing that award academic credit to students who complete the program. The Secretary will give second preference to applicants other than schools of nursing that award academic credit to students who complete the program.

(c) In determining the level of funding for traineeship programs funded under this section, the Secretary shall give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332 of the Act.

§ 57.2605 How long does grant support last?

(a) The notice of grant award specifies the length of time the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed 3 years.

(b) Generally, the grant will initially be funded for 1 year, and subsequent continuation awards will also be for 1 year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the availability of funds and the grantee's progress and management practices. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of federally obligated funds remaining unobligated by the school at the end of a budget period may be carried forward to the next budget period for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds provided and made available to the school for that period, including any unobligated balance carried forward from prior periods, exceeds the school's needs for the period, the Secretary may adjust the amounts provided by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 57.2606 How is the amount of the award determined?

The amount of the award to the grantee will be determined on the basis of the Secretary's estimate of the sum necessary during the budget period to

cover 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

§ 57.2607 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) A grantee may not spend grant funds for sectarian instruction or for any religious purpose.

§ 57.2608 What financial support is available to trainees?

The grantee must pay each trainee, from grant funds, the entire cost of tuition and fees for the program, and a stipend and allowance, as set forth by the Secretary in the notice of grant award. This allowance must include costs incurred for:

(a) Books and equipment necessary for the course of study;

(b) Initial necessary travel from the trainee's residence to the training site;

(c) Travel required for clinical practice during the training program; and

(d) Necessary travel and moving expenses from the training site to the site of the obligated practice.

§ 57.2609 Who is eligible for financial assistance as a trainee?

To be eligible for a traineeship, an individual must:

(a) Be a national of the United States or a permanent resident of the Trust Territory of the Pacific Islands or the Commonwealth of the Northern Mariana Islands, or a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, or Guam;

(b) Be accepted for enrollment, or be enrolled, as a full-time student in a nurse practitioner training program;

(c) Not be receiving concurrent support for the same training from another Federal source, except education benefits under the Veteran's Readjustment Benefits Act; and

(d) Have signed a commitment with the Secretary in accordance with § 57.2613.

§ 57.2610 What are the requirements for traineeships and the appointment of trainee?

(a) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period. The program director must sign the statement of appointment and the grantee must retain it for 3 years.

(b) The grantee must require each trainee to sign a commitment with the Secretary to practice as a nurse practitioner in a health manpower shortage area, designed as being short of primary care health manpower. The commitment must meet the requirements of § 57.2613.

(c) The grantee may not require trainees to perform any work which is not an integral part of the nurse practitioner training program and required of all students in the program.

(d) The grantee must give priority in the allocation of traineeships to individuals who are residents of health manpower shortage areas designated under section 332 of the Act.

(Approved by the Office of Management and Budget under control number 0915–0083.)

§ 57.2611 Duration of traineeships.

Initial appointment to traineeships must be made for a full academic year, not to exceed 12 months, except that a shorter appointment may be made when necessary to enable the trainee to complete the training program. Appointments may be extended on a year-to-year basis. The total period of support for any trainee may not exceed 24 months.

§ 57.2612 Termination of traineeships.

The grantee must terminate a traineeship:

(a) Upon request of the trainee;

(b) If the trainee is no longer enrolled full-time in the nurse practitioner training program for which the trainee was receiving a traineeship under this subpart; or

(c) If the trainee fails to maintain the level of academic standing required by the institution's standards and practices for full-time enrollment.

§ 57.2613 What must a trainee agree to do in return for traineeship support?

(a) *General.* Each trainee must sign a commitment with the Secretary to practice as a nurse practitioner on a full-time basis (at least 40 hours per week) in a health manpower shortage area designated as having a shortage of primary medical care health manpower. At the end of the training program, the trainee must inform the Secretary of the location where he or she will be serving the practice commitment. The trainee must also inform the Secretary of any changes in name, address, and employment during this period of practice.

(b) *Duration of practice.* The period for which a trainee must agree to practice is equal to 1 month for each month for which the trainee receives support from grant funds. Once practice has begun, it must be continuous for the entire period of practice required by the commitment, unless the Secretary permits suspension of the obligaiton in accordance with § 57.2615.

(c) *Beginning of practice.* The trainee must begin the practice described in paragraph (a) of this section within 3 months of the completion of the training program.

(Approved by the Office of Management and Budget under control number 0915–0083.)

§ 57.2614 What are the consequences if the trainee fails to comply with the terms of the commitment?

If a trainee fails to complete the training program or fails to begin or complete the period of practice required by the commitment under § 57.2613, the trainee must repay the traineeship support to the United States Treasury. The trainee must pay the amount owed within 36 months of the date on which he or she failed to complete the training program or failed to begin or complete the period of required practice, as determined by the Secretary.

(a) *Failure to complete the training program.* A trainee who is dismissed from the academic program or who voluntarily terminates academic training must repay the traineeship support to the United States Treasury. This individual shall be liable for an amount equal to the cost of tuition and other education expenses paid to or for such individual from Federal funds plus any other payments which were received under the traineeship.

(b) *Failure to begin or complete the period of practice.* If for any reason an individual who received a traineeship and completed the training program fails to complete a service obligation, this individual must repay the traineeship support plus interest to the United States Treasury. The amount of repayment must equal the sum of all traineeship support received, together with interest at the maximum legal prevailing rate in effect on the date the trainee initially received traineeship assistance.

§ 57.2615 When can the practice or payment obligation be waived or suspended?

(a) *Application for waiver or suspension.* A trainee may seek waiver or suspension of the commitment to practice or obligation to repay traineeship support by written request to the Secretary setting forth the basis, circumstances, and causes which

support the requested action. The total period during which the practice or repayment obligation may be suspended may not exceed 2 years.

(b) *Conditions for suspension.* The Secretary may suspend any practice or repayment obligation whenever he or she finds good cause based on such factors as:

(1) The trainee's efforts to secure employment which satisfies practice obligation;

(2) The trainee's present and estimated future financial resources and obligations; or

(3) The extent to which the trainee has problems of a personal nature, such as physical or mental disability, or terminal illness in the immediate family, which temporarily prevent the trainee from performing the obligation incurred.

(c) *Conditions for waiver.* The Secretary may waive any practice or repayment obligation:

(1) Upon the death of the trainee;

(2) If the trainee is found to be permanently and totally disabled as supported by whatever medical certification the Secretary may require. A trainee is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment which is expected to continue indefinitely or result in death.

(3) Whenever the Secretary finds that compliance is impossible or would involve extreme hardship to such individual and if enforcement of such obligation would be against equity and good conscience. In order to make this determination, the Secretary may require the trainee to provide supporting documentation.

Among the factors which will be considered by the Secretary in the waiver of any obligation are the extent to which the trainee has personal problems due to circumstances beyond his or her control such as a mental or physical disability; the extent to which the trainee has problems in his or her immediate family which prevent the trainee from either repaying training costs or performing his or her service obligation; and the extent to which the trainee's good faith efforts fail to secure employment which satisfies the practice obligation.

(Approved by the Office of Management and Budget under control number 0915–0083.)

§ 57.2616 What additional Department regulations apply to grantees?

Several other Department regulations apply to grantees. They include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals process

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board

45 CFR Part 46—Protection of human subjects

45 CFR Part 74—Administration of grants

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964

45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title

45 CFR Part 83—Regulation for the Administration and enforcement of Sections 704 and 855 of the Public Health Service Act

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving financial assistance

§ 57.2617 Additional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of any award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 84–20293 Filed 7–31–84; 8:45 am]
BILLING CODE 4160–16–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR PART 64

[Docket No. FEMA 6615]

Suspension of Community Eligibility Under the National Flood Insurance Program; New York et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency

Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
REGION II					
New York:					
Chautauqua	Ellicott, town of	361073A	Jan. 12, 1976, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Dec. 6, 1974	Aug. 1, 1984.
Dutchess	Pawling, village of	361517A	Mar. 4, 1976, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Feb. 7, 1975	Do.
Do.	Tivoli, village of	361507A	Mar. 18, 1976, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Dec. 20, 1974	Do.
REGION III					
Pennsylvania:					
Chester	Honey Brook, township of	422290A	Nov. 10, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Dec. 6, 1974	Do.
Do.	Newlin, township of	421486	Oct. 24, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Nov. 1, 1974 and Aug. 6, 1976	Do.
Do.	Valley, township of	421206A	May 23, 1974, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Nov. 8, 1984	Do.
Do.	West Nantmeal, township of.	421498B	Feb. 12, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Dec. 13, 1974 and Jan. 23, 1981	Do.
REGION V					
Ohio: Lawrence	Proctorville, village of	390700B	Feb. 14, 1977, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Apr. 18, 1975 and Sept. 21, 1979	Do.
REGION VI					
Texas:					
Montgomery	Unincorporated areas	480483C	Oct. 15, 1973, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Apr. 25, 1978 and Mar. 25, 1980	Do.
Do.	Forest, city of Roman	481538A	Jan. 11, 1979, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.		Do.
REGION VII					
Kansas: Doniphan	White Cloud, city of	200086A	Feb. 21, 1979, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Dec. 27, 1974	Do.
REGION VIII					
Montana: Gallatin	Unincorporated areas	300027B	Nov. 20, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	May 16, 1978	Do.
REGION IX					
Arizona: Pima	Marana, town of	040118B	Apr. 17, 1980, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Dec. 17, 1973, May 15, 1979 and Apr. 17, 1980.	Do.
California:					
San Luis Obispo	Grover City, city of	060306B	Mar. 27, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	June 21, 1974 and Sept. 26, 1975	Do.
Do.	Pismo Beach, city of	060309A	Feb. 25, 1977, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Mar. 26, 1976	Do.
Nevada: Washoe	Unincorporated areas	320019B	June 25, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Feb. 28, 1978	Do.
REGION X					
Idaho: Bonner	do	160206B	May 14, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Oct. 25, 1977	Do.
Oregon:					
Coos	Coos Bay, city of	410044B	Aug. 23, 1974, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Aug. 23, 1974 and Mar. 25, 1977	Do.
Do.	Lakeside, city of	410278B	June 2, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Nov. 22, 1977	Do.
Do.	North Bend, city of	410048B	June 4, 1975, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	June 28, 1974 and July 11, 1975	Do.
Linn	Scio, city of	410144A	Aug. 15, 1974, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	Nov. 22, 1974	Do.

State and county	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Washington: King	North Bend, city of	530085B	Nov. 6, 1974, emergency, Aug. 1, 1984, regular, Aug. 1, 1984, suspended.	May 17, 1974 and May 7, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas

(National Flood Insurance Act of 1968 [title XIII of the Housing and Urban Development Act of 1968]; effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: July 24, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-20409 Filed 7-31-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 81-893; FCC 84-304]

Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry); Denial of Petition and Clarification of Intent

AGENCY: Federal Communications Commission.

ACTION: Denial of petition and clarification of intent.

SUMMARY: This Order (1) authorizes AT&T Information Systems (AT&T-IS) to carry out lease rate adjustments on July 1, 1984, with regard to embedded multi-line customer premises equipment (CPE) which was transferred to AT&T-IS pursuant to earlier decisions of the Commission; and (2) provides that subsequent lease rate adjustments during the transition period established by the Commission may be made by AT&T–IS with regard to this embedded equipment on July 1, 1985, and January 1, 1986. This Order is necessary because it provides that an earlier decision of the Commission, which would have barred AT&T-IS from carrying out any lease rate adjustments on July 1, shall not apply. The intended effect of the Order is (1) to obviate the billing costs and disruptions which would occur if AT&T-IS were prohibited from carrying out scheduled leases rate changes on July 1; and (2) prevent any irreparable harm to customers using embedded multi-line CPE by postponing for two months lease rate adjustments which originally were scheduled to be made on May 1, 1985.

EFFECTIVE DATE: The effective date of the Order is June 29, 1984.

FOR FURTHER INFORMATION CONTACT: John Cimko, Jr. (202) 632–9342.

SUPPLEMENTARY INFORMATION:

Order

In the matter of Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry) CC Docket No. 81–893.

Adopted: June 28, 1984.

Released: June 29, 1984. By the Commission: Commissioner Quello concurring and issuing a statement.

1. In an action taken on June 15, 1984,[1] we indicated that AT&T Information Systems (AT&T–IS) is authorized to adjust lease rates for embedded multi-line customer premises equipment (CPE) at eight-month intervals during a two-year transition period established in an earlier action in this docket.[2] This action constituted a clarification of our intent in *CPE Detariffing Order* that such adjustments could be made at eight-month, rather than six-month, intervals for all embedded multi-line CPE transferred to AT&T-IS. Under our June 15 action, lease rate adjustments were authorized to be made on September 1, 1984, May 1, 1985, and January 1, 1986.

2. On June 20, 1984, International Communications Association (ICA) petitioned us to order AT&T-IS to cease and desist from carrying out any lease rate adjustments on July 1, 1984.[3] ICA notes in its pleading that AT&T-IS has informed the Commission and in-place customers that it plans to implement lease rate adjustments on July 1. ICA Petition at 4 & n.*. On June 22, 1984, AT&T-IS filed an opposition to the ICA Petition arguing that the planned July 1 price changes should be permitted to proceed without disruption.[4] Based upon our review of these pleadings, we have decided to deny the ICA Petition. We also shall establish additional requirements regarding the manner in which AT&T-IS may adjust lease rates.

3. With regard to the scheduled July 1, 1984, lease rate adjustments, ICA makes the following assertions. First, *CPE Detariffing Order* is clear on its face that lease rate adjustments may be made at eight-month, and not six-month, intervals and the July 1 changes planned by AT&T-IS are in disregard of this Commission requirement. ICA Petition at 5 ("These increases are being implemented by AT&T-IS pursuant to its singularly held view that it can implement such increases at 6-month intervals.") Second, AT&T-IS already has carried out an adjustment of lease rates on March 1, 1984, which was unlawful under the terms of *CPE Detariffing Order*,[5] and an additional unlawful increase on July 1 will "compound the damage to users. . . ." *Id.* at 6. Third, AT&T–IS is in a position to stop the July 1 increases from taking effect and to notify customers that any July 1 increases for which they actually have been billed are not to be paid. *Id.* at 6–7, 9. ICA also surmises that the Bell Operating Company (BOC) billing systems shared by AT&T-IS, and AT&T-IS's own billing systems, should be configured in a manner which facilitates the prompt removal of the July 1 increases from the billing systems. *Id.* at 7–8.

4. AT&T-IS, in opposing the ICA Petition, argues that "the July 1 increases, as a practical matter, have already been implemented [in many jurisdictions] and cannot be reversed without extraordinary customer confusion, cost and disruption in these jurisdictions." AT&T-IS Opposition at 3. AT&T-IS presents an extensive discussion of the operational constraints of its CPE billing systems as a means of

[1] CC Docket No. 81–893, Second Report and Order, FCC No. 84–269 (released June 29, 1984) (hereinafter Second Report and Order) (49 FR 27754; July 6, 1984).

[2] CC Docket 81–893, Report and Order, FCC 83–551, 48 FR 57168 (publication of summary) (released Dec. 15, 1983), *Reconsideration petitions pending*, Public Notice No. 1445, 49 FR 5672 (released Feb. 6, 1984) (hereinafter CPE Detariffing Order).

[3] ICA, Petition for Emergency Relief and Order Directing AT&T Information Systems To Cease and Desist from Violation of Commission Orders, CC Docket No. 81–893 (filed June 20, 1984) (hereinafter ICA Petition).

[4] AT&T-IS, Opposition to ICA Petition for Emergency Relief, CC Docket No. 81–893 (filed June 22, 1984) (hereinafter AT&T-IS Opposition).

[5] ICA contends that the March 1, 1984, lease rate adjustments were unlawful because AT&T-IS has not taken sufficient action to trigger the transition period under the terms of CPE Detariffing Order, and the triggering of the transition is a precondition for AT&T-IS's authority to adjust lease rates. This contention will be addressed in a later action in this docket.

demonstrating that considerable disruption would result from any attempt to forego the scheduled July 1 lease rate adjustments. *See id.* at 12–16. In the course of this discussion, AT&T-IS makes the following assertions. First, as of June 1, 1984, AT&T-IS has converted to its own billing system in 20 jurisdictions; all multi-line CPE bills rendered on or after June 2 in these jurisdictions already reflect a portion of the scheduled July 1 changes. *Id.* at 2. Second, it is not possible to revert to pre-July 1 price levels because "the prior rates have not been retained by [the AT&T-IS billing system] in any manner which would permit AT&T-IS to mechanically input those rates to the system." *Id.* at 13. Any such reversion would require manual input and a reconversion to the old billing software. *Id.* In some jurisdictions this would require reconversion to the old BOC billing codes and rates; AT&T-IS contends this would be extraordinarily difficult because "[the BOCs'] preconversion records have been destroyed." *Id.*

5. Third, any attempt to revert to pre-July 1 price levels would "require AT&T-IS to shut down [its billing systems] completely for at least one month." *Id.* AT&T-IS notes that any such exercise would result in "delays, chaos and financial losses." *Id.* Fourth, in those jurisdictions which have not yet been converted to AT&T-IS billing, any attempt to halt the July 1 changes would generate significant customer confusion and jeopardize the ability of the BOCs to continue efficiently their provision of billing services to AT&T-IS and their conversion of these billing systems to new systems operated exclusively by AT&T-IS. *Id.* at 14–16.

6. ICA filed a reply to the AT&T-IS Opposition on June 26, 1984. ICA renews its contentions regarding the legality of the March 1, 1984, lease rate changes made by AT&T-IS,[6] and further argues that there is no basis for AT&T-IS's conclusion that *CPE Detariffing Order* authorized lease rate adjustments at six-month intervals.[7] On the specific issue of the July 1, 1984, lease changes scheduled by AT&T–IS, ICA argues that AT&T–IS has acted imprudently in scheduling these changes and should be required to absorb any costs associated with its imprudent action. ICA Reply at 6–7. ICA also contends that the Commission should be mindful of the fact that multi-line CPE users are without self-help alternatives because they "cannot on short notice go elsewhere in order to meet their CPE needs." ICA Reply at 8. As a solution to the July 1 billing problem, ICA suggests that AT&T-IS should be required to mail follow-up notices to users indicating that increases reflected on July 1 bills should not be paid. ICA Reply at 9–10.[8]

7. Based upon our review of these pleadings, we hereby deny the ICA Petition and authorize AT&T–IS to go forward with lease rate adjustments on July 1, 1984. We also shall require that the second lease rate adjustment may be made on July 1, 1985, and the third adjustment may be made on January 1, 1986. Under the terms of CPE Detariffing Order, the second adjustment would have occurred on May 1, 1985, but we now are requiring that this adjustment be postponed until July 1, 1985, to take into account the fact that the July 1, 1984, adjustment is occurring two months earlier than scheduled under CPE Detariffing Order. The January 1, 1986, adjustment adheres to the original schedule established in that Order.

8. Authorizing adjustments to be made on July 1, 1984, rather than September 1, 1984, is based upon the following reasons: (1) Customers will not be irreparably harmed by this authorization because our decision to delay the second adjustment from May 1, 1985 (the originally scheduled date for adjustments under the terms of *CPE Detariffing Order*) to July 1, 1985, provides a means of recoupment for customers in compensation for the fact that the July 1, 1984, adjustments are being made two months in advance of the eight-month interval established in *CPE Detariffing Order*. (2) AT&T–IS, acting on the mistaken assumption that *CPE Detariffing Order* authorized adjustments as of July 1, has already taken a series of steps to effectuate these adjustments. AT&T–IS Opposition at 12; *see* para. 4, *supra*. For example, a considerable number of bills reflecting lease rate adjustments effective July 1 have been mailed to customers. In light of the fact that, by delaying the second scheduled lease rate changes for two months, we have fashioned a remedy for the benefit of in-place customers, we cannot agree with ICA's assertion that requiring AT&T–IS to retract mailed bills and to reprogram its computer software constitutes a workable resolution of this dispute. (3) We recognize that considerable costs would be incurred by AT&T–IS if AT&T–IS were required to attempt to undo the mechanisms already set in motion to carry out adjustments on July 1. In view of these costs and the substantial billing disruption which would occur if the scheduled July 1 lease rate changes were required to be postponed, we conclude that it is desirable to permit these changes to go forward.

9. We must stress, however, that AT&T–IS, in scheduling lease rate changes for July 1, acted solely upon its own interpretation of the requirements of *CPE Detariffing Order* and without any authority under the terms of that *Order*. AT&T–IS in fact was advised by the Common Carrier Bureau in January 1984 "that it would be advisable for ATT–IS, in any notice made to its embedded multi-line CPE customers, to inform these customers that there is still uncertainty regarding the . . . phasing-in of multi-line CPE lease rates during the transition, and that these issues will be resolved by the Commission at a later date." Letter from Chief, Common Carrier Bureau, to D. J. Culkin (Jan. 17, 1984); *see* ICA Reply at 6–7. Further, AT&T–IS did not furnish us with any specific notice that it intended to reconfigure its computer billing system in a manner which would preclude rectifying its unwarranted decision to go forward with July 1 lease rate changes. AT&T–IS is admonished for taking these unilateral actions in disregard of the plain meaning of *CPE Detariffing Order*. Such irresponsible action cannot be condoned and AT&T–IS is cautioned to refrain from such action in the future.

10. Accordingly, it is ordered, that the ICA Petition IS DENIED.

11. It is further ordered, that AT&T–IS shall be authorized to make adjustments in lease rates applicable to embedded multi-line CPE, pursuant to the terms of *CPE Detariffing Order* and this Order, on July 1, 1984, July 1, 1985, and January 1, 1986.

12. It is further ordered, that this order shall take effect on the date after the date of the adoption of this order.

13. It is further ordered, that the Secretary of the Commission shall cause a copy of this order to be published in the **Federal Register.**

(Secs. 4(i), 4(j), 201–205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 213, 218, 220, and 403.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Concurring Statement of FCC Commissioner James H. Quello

In re: Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services

[6] *See* para. 3 & n. 5, *supra*.

[7] As we have noted, we have clarified our intent regarding this issue in the Second Report and Order. *See* para. 1, *supra*.

[8] ICA also discusses additional "long term" remedies to take into account AT&T-IS's "other major violations" of CPE Detariffing Order. ICA Reply at 10–13. As we have noted, these issues are beyond the scope of this Order. See para. 3 n. 5, *supra*.

(Second Computer Inquiry) CC Docket No. 81-893

I believe that the action taken in this *Order* is correct only insofar as it deals with the immediate problem of implementing a billing system already in place. I object to the admonition gratuitously appended in which AT&T is taken to task for altering its billing system prematurely in the face of the "plain meaning of *CPE Detariffing Order.*" (See paragraph 9.)

In fact, the "plain meaning" of the CPE Order became "plain" with the Commission's interpretation on June 15, just two weeks ago. The Common Carrier Bureau, with uncharacteristic humility, concluded that it was unqualified to make an interpretation when requested by the carrier to do so early in January. Instead, it recommended an interpretation five months later which the Commission promptly approved. Had the carrier waited for an interpretation before reconfiguring its billing system, it would have been unable to reconfigure in a timely manner even if its interpretation had been sustained.

Much has been said of removing the "heavy hand of government" from the lives of the American people. The tone of this Order appears to supplant that "heavy hand" with the heel of a hobnailed boot.

[FR Doc. 84-20130 Filed 7-31-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 78-28; MM Docket No. 83-16; RM-3103; RM-3740]

Relative Phase Tolerances for Directional AM Stations, Expansion of Use of Toroidal Transformers as a Method of Deriving Current Samples in Directional (AM) Antenna Systems, and Use of Radio Frequency Relays in Sampling Element Transmission Lines

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the attached *Memorandum Opinion and Order* the Commission decided: (a) To require the relative phases of a directional AM station antenna currents to be maintained within ±3° of the specified values for non-critical arrays; (b) to expand the use of toroidal current transformers as a means of deriving current samples in directional AM arrays for towers over 130° in electrical height; and (c) to permit broadcasters to use radio frequency relays in the sampling element of transmission lines. This is necessary to respond to petitions filed requesting reconsideration of the Commission's action taken in the *Report and Order* (January 11, 1984; 49 FR 1368).

EFFECTIVE DATE: August 1, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John A. Karousos, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Memorandum Opinion and Order

In the matter of amendment of § 73.52 of the Commission's Rules and Regulations with respect to relative phase tolerances for directional AM stations, BC Docket No. 78-28; amendment of § 73.68 of the Rules to expand the use of toroidal transformers as a method of deriving current samples in directional (AM) antenna systems; and to provide for the use of radio frequency relays in sampling element transmission lines, MM Docket No. 83-16, RM-3103, RM-3740.

Adopted: July 12, 1984.

Released: July 19, 1984.

By the Commission: Commissioner Rivera absent.

Introduction

1. The Commission has under consideration requests for reconsideration of its *Report and Order* in the above entitled proceedings adopted December 1, 1983 (49 FR 1368; published January 11, 1984). With regard to BC Docket No. 78-28, the Commission formalized a long-standing policy that required the relative phases of directional AM station antenna currents to be maintained within ±3° of the licensed values for non-critical AM antenna arrays.[1] In MM Docket No. 83-16, the Commission amended the rules to provide for greater flexibility in the use of toroidal current transformers as a means of deriving directional AM station antenna sample currents. The Commission also adopted a change in § 73.68(a)(1) of the rules to permit AM broadcasters to use a remotely controlled switch or a radio frequency relay to feed the sample currents to the antenna monitor. Petitions for reconsideration were filed by Hatfield and Dawson Consulting Engineers, Inc. and Doug C. McDonell, Engineering Consultant.

Discussion

2. Hatfield and Dawson Consulting Engineers, Inc. requested the Commission to editorially amend the provisions of § 73.68 as adopted to provide for the use of impedance matched relays or switches to allow the selection of individual sampling elements at a given tower to accommodate different modes of operation. The petitioner also stated that the revised rule does not make clear whether it allows the use of a relay to switch the input to a single sample line from more than one current transformer or sample loop at a given tower. The petitioner further states that this mode of operation is highly desirable where the difference between daytime and nighttime antennas configuration and power requires the use of sampling devices of greatly different sensitivity. We believe that the petitioner's request is analogous to and consistent with our previous action relative to the use of RF relays or switches. Therefore, the petitioner's request to amend § 73.68 is being granted as set forth in the attached appendix.

3. Doug C. McDonell, Engineering Consultant, believes that the 130 electrical degree value should have been retained as a maximum height for the use of current transformers. However, since the Commission decided not to prohibit the use of toroidal current transformers in cases where the antenna tower exceeds 130° in electrical height, the petitioner requests that the limitation on operating potentials of sampling system loops should also be removed.[2] This request is denied. In this proceeding the Commission did not seek to modify the method of decoupling sampling lines from antenna towers or the installation of sampling current loops to operate accurately, but allowed the use of toroidal transformers where the antenna towers are above 130° in electrical height. Thus, the issue raised by McDonell is essentially unrelated to those issues in this proceeding.

4. Accordingly, it is ordered, that the "Petition for Reconsideration" filed in this proceeding by Hatfield and Dawson Consulting Engineers, Inc. is granted.

5. Additionally, it is ordered, that the "Petition for Reconsideration" filed in this proceeding by Doug C. McDonell, Engineering Consultant, is denied.

6. Consistent with the foregoing decisions, it is ordered, that Part 73 of the Commission's Rules, 47 CFR Part 73, is amended, as set forth in the attached Appendix, effective upon publication in the **Federal Register.**

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[1] Critical arrays have a license specified phase tolerance more stringent than ±3° for reasons of interference protection.

[2] Sampling current loops must be installed to operate at tower potential, provided that for towers less than 130° in electrical height, loops operating at ground potential may be used. See § 73.68(a)(2).

7. It is further ordered that this Proceeding is terminated.

8. Authority for this action is contained in section 4(i), 303(g) and 303(r) of the Communications Act of 1934, as amended.

9. For further information on this proceeding, contact John A. Karousos, Mass Media Bureau, (202) 632-9660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

Section 73.68 is amended by revising paragraph (a)(1)(vi) to read as follows:

§ 73.68 Sampling systems for antenna monitors.

(a) * * *

(1) * * *

(vi) The provisions of this subparagraph do not preclude the use of a centrally located impedance-matched radio frequency relay or a remotely controlled switch to provide relative sampling currents to the antenna monitor over a single transmission line. However, the reference sampling line and the relative sampling line from the switching point to the antenna monitor must be identical in type and electrical length, and must be exposed to the same environment. The sampling line from each sampling element to the relay must conform to all relevant requirements indicated in this subparagraph. Alternatively, when such a relay is used to select signal samples from any of two or more sampling devices installed either on the tower or at its base and feed the sample to the antenna monitor through a single sampling line, the length of cable from each device to the relay shall be equal. Additionally, a licensee may install the antenna monitor at a centrally located or otherwise convenient location provided that the temperature and humidity of the operating environment are maintained within the tolerances specified by the antenna monitor manufacturer. When such an antenna monitor is to be remotely controlled and read, installation shall conform to the requirements of § 73.67 of this part.

* * * * *

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[FR Doc. 84-20017 Filed 7-31-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

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

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by vessels permitted in the incidental longline category in the regulatory area. Closure of this fishery is necessary because the annual catch quota of 145 short tons (st) will be attained by the effective date. The intent of this action is to insure that the overall U.S. quota for Atlantic bluefin tuna in the Western Atlantic Ocean will not be exceeded.

EFFECTIVE DATES: 0001 hours Eastern Daylight Time (EDT) August 1, 1984 through December 31, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 325, or David S. Crestin 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the Federal Register on June 17, 1983 (48 FR 27755).

Section 285.22(f)(1) of the regulations provides for an annual quota of 145 short tons (st) of Atlantic bluefin tuna to be taken by vessels permitted in the incidental longline category in the regulatory area. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is required under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of Atlantic bluefin tuna of 135 st and the recent catch rate, that the annual quota of Atlantic bluefin tuna allocated to vessels permitted in the incidental longline category will be attained by the effective date. Fishing for and retention of any Atlantic bluefin tuna by longline vessels must cease at 0001 hours EDT on August 1, 1984.

Notice of this action has been mailed to all Atlantic Bluefin tuna dealers and vessels owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries.

(16 U.S.C. 971 *et seq.*)

Dated: July 27, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 84-20342 Filed 7-31-84; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Parts 654 and 658

[Docket No. 40558-4082]

Stone Crab Fishery and Shrimp Fishery of the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement an amendment to each of the fishery management plans for the stone crab fishery and shrimp fishery of the Gulf of Mexico. This rule provides for: (1) Opening and closing specific fishing areas in the fishery conservation zone (FCZ) off Pasco, Hernando, and Citrus Counties, Florida, to stone crab or shrimp fishing; (2) modifying the specific fishing areas in the FCZ specified in (1) above; (3) prohibiting the intentional placement of articles in the FCZ that interfere with fishing or the utilization of fishing gear to damage intentially the gear of another; and (4) disposing of stone crab traps found in areas closed to crab fishing. The intent of these regulations is to allow orderly conduct of the two fisheries and avoid serious conflict between stone crab and shrimp fishermen.

EFFECTIVE DATE: August 31, 1984.

ADDRESS: A copy of the combined supplementary regulatory impact review/final regulatory flexibility analysis (SRIR/FRFA) may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

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

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (Stone Crab FMP) prepared by the Gulf of Mexico Fishery Management Council (Council) was approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), on March 19, 1979, and implemented by regulations published September 14, 1979 (44 FR 53520), under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Shrimp FMP) prepared by the Council, was approved by the Assistant Administrator on November 7, 1980, and implemented by regulations published May 20, 1981 (46 FR 27494).

Emergency regulations amending the Stone Crab and Shrimp FMPs under section 305(e)(2) of the Magnuson Act were published on April 6, 1983 (48 FR 14903), October 11, 1983 (48 FR 46057), and December 21, 1983 (48 FR 56394). These emergency regulations were implemented to resolve continuing gear conflicts between shrimp and stone crab fishermen in the FCZ off the Pasco, Hernando, and Citrus Counties, Florida area during the 1983 and 1984 stone crab seasons.

This rulemaking consists of procedures which establish exclusive fishing areas for shrimp trawling or for crab fishing in the FCZ and provide a flexible system with rapid response time for addressing the conflict in the tri-county area in future years by notice in the **Federal Register**. In addition to these procedures, the rulemaking (1) authorizes the Secretary of Commerce (Secretary) to resolve conflicts in other areas when they occur through regulatory amendment and to dispose of traps in areas closed to stone crab fishing, and (2) prohibits placement of articles in the FCZ with the intent to interfere with fishing by others.

Gear conflicts have occurred between shrimp and stone crab fishermen for the past six years in the area west of Pasco, Hernando, and Citrus Counties, Florida. A discussion of the conflicts, their effect on local fishermen and results of previously implemented emergency regulations was contained in the preamble to the proposed rulemaking. This discussion is not repeated here.

Comments and Responses

During the public comment period, the only comments received on the proposed rule were those submitted by the Council.

Comment 1

The Council requested modification of the wording under § 654.23(b)(3) to include the entire management area.

Response

This change was not made since § 654.22(b) provides authority for the disposition of traps throughout the management area and § 654.23(b)(3) is intended specifically for the closed zones.

Comment 2

The Council requested that the wording in § 654.23(a)(3) and (5) and § 658.24(a)(3) and (5) be modified to indicate clearly the authority of the Ad Hoc Advisory Panel to recommend zoning modifications.

Response

The appropriate wording has been added to these sections.

Comment 3

In the FMP amendment, the Council included a provision authorizing the Secretary to modify, with the concurrence of the Council, the existing zoning by notice in the **Federal Register**. This measure was not included in the proposed rule because of a question regarding its legality. The Council requested that this provision be incorporated in the final rule.

Response

The legal issue has been resolved and the deleted authority is included in § 654.24 and § 658.24 of the final rule with modification.

Changes From the Proposed Rule

For the reasons discussed above, the final rule differs from the proposed rule as follows:

Sections 654.24 and 658.24

Paragraphs (a)(7) through (c) of these sections have been amended by redesignating as paragraphs (b)(1) through (d) to accommodate incorporation of new paragraphs (7)(i)(iii) authorizing the Secretary to modify, with the concurrence of the Council, the existing zoning by notice in the **Federal Register.**

Sections 654.24 (a) (3) and (5) and 658.24 (a) (3) and (5)

Wording has been added to these sections to indicate clearly the authority of the Ad Hoc Advisory Panel to recommend zoning modifications.

Classification

The Assistant Administrator, after considering all comments received on the FMP amendments and the proposed regulations, has determined that the FMP amendments are necessary and appropriate for conservation and management of the stone crab and shrimp fisheries and are consistent with the national standards and other provisions of the Magnuson Act, and other applicable law.

The Council prepared an environmental assessment for these FMP amendments and concluded that there will be no significant impact on the environment as a result of this rule. You may obtain a copy of the environmental assessment from the address listed above.

The Administrator, NOAA, has determined that these regulations are not major requiring the preparation of a regulatory impact analysis (RIA) under Executive Order 12291. A final supplementary regulatory impact review (SRIR) has been prepared that analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The major benefit provided by this amendment is the institution of a permanent system to resolve conflicts cooperatively by the Secretary (in the FCZ) and the State of Florida (in its jurisdiction).

The Council prepared a SRIR which concludes that these rules will have the following economic effects. This amendment of the FMPs allows both fisheries to operate in an orderly manner in the area off Pasco, Hernando, and Citrus Counties, Florida. Under generally unregulated conditions in the conflict area, fishermen were incurring cumulative losses estimated at $950,000 annually. These losses were a result of lost production in fishing harvest, lost gear, and the replacement costs of lost or damaged gear, all resulting from the gear conflict. Restoration of orderly fisheries should reduce such losses to a negligible level. Such action is also expected to reduce the enforcement burden on Federal and State agencies over that existing in the unmanaged fisheries, or in the fisheries regulated by emergency rule. Over time, under the regulations, most of the enforcement burden will be borne by the State under a cooperative law enforcement agreement. Such a burden to maintain orderly fisheries will be minimized. Costs to the Council for development of the amendments are estimated at $26,000.

If the fishery had to be closed or severely restricted (by emergency rule or notice) to resolve a serious conflict, it would result in adverse economic impacts on the participants in the two fisheries, ranging from $374,000 to less than $50,000, depending on the regulatory option invoked. Such impacts, however, must be contrasted against violence, civil disorder, and potential loss of life and property. These impacts support the need to institute the provision for restoration of orderly fisheries.

The Council prepared a final regulatory flexibility analysis as part of the SRIR which concludes that this rule will have a significant effect on small business entities. These effects are included in the SRIR which is summarized above. You may obtain a copy of this analysis from the address listed above.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Florida. The State of Florida Department of Environmental Regulation has concurred with this determination.

List of Subjects in 50 CFR Parts 654 and 658

Fisheries, Reporting and recordkeeping requirements.

Dated: July 27, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Parts 654 and 658 are amended as follows:

1. The authority citation for Parts 654 and 658 reads as follows:

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

PART 654—STONE CRAB FISHERY

2. The Table of Contents is amended by redesignating § 654.24 as § 654.25 and by adding a new entry § 654.24 "Zone modification procedures."

3. Section 654.2 is amended by adding the definitions of "Committee", "Council", "FDNR", "FMP", "Secretary", and "State" in alphabetical order to read as follows:

§ 654.2 Definitions.

* * * * *

Committee means Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee or any successor committee designated as such by the Staff of Florida.

Council means the Gulf of Mexico Fishery Management Council, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

* * * * *

FDNR means the Florida Department of Natural Resources.

FMFC means the Florida Marine Fisheries Commission.

FMP means the Fishery Management Plan for Stone Crab Fishery.

* * * * *

Secretary means the Secretary of Commerce, or a designee.

State means the State of Florida.

* * * * *

4. Section 654.23 is amended by redesignating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 654.23 Area restrictions.

* * * * *

(b)(1) Between 0001 hours October 5 to 2400 hours May 15 each year, it is unlawful to place stone crab traps in the water or harvest stone crabs from traps in that area of the FCZ (Figure 3) bounded by a continuous line connecting the following points expressed by latitude and longitude (LORAN notations are unofficial, and are included only for the convenience of fishermen):

AREA III

Point	Latitude	Longitude	LORAN rate 7980			
			W	X	Y	Z
Q	28°49.45' N	82°55.75' W	14375		45260	62971.4
R	28°49.77' N	82°56.31' W	14375			62975
Z	28°42.52' N	82°56.10' W	14355			62975
Y	28°42.07' N	82°55.37' W	14355			62970
U	28°31.25' N	82°55.15' W	14325			62970
V	28°29.80' N	82°52.66' W	14325			62955
X[1]	28°37.88' N	82°53.02' W	14347.2	31285		62955
Thence northerly among the State boundary to point Q.						

[1] This point is on the State boundary.

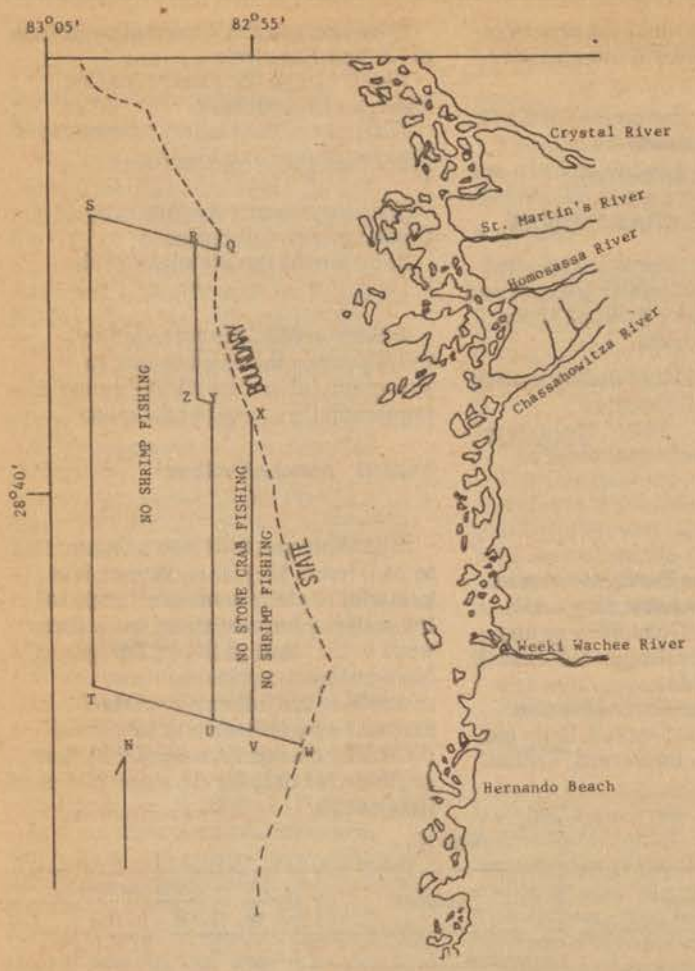

Figure 3. Chart delineating areas closed to fishing for shrimp or stone crab (not to scale, for illustrative purposes only).

(2) No person may place into the management area any article, including fishing gear, with the intent to interfere with fishing or obstruct or damage fishing gear or fishing vessels of others, to utilize willfully fishing gear in such a fashion that it obstructs or damages the fishing gear or fishing vessel of another.

(3) Stone crab traps found in the area described in paragraph (b)(1) of this section during the closed period will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Secretary or an authorized officer. Lines and buoys are considered part of the trap. Owners of these stone crab traps are subject to civil penalties. All stone crab traps fished in the FCZ will be presumed to be the property of the most recently documented owner.

5. Section 654.24 "Specifically authorized activities" is redesignated as § 654.25, and a new § 654.24 is added in its entirety to read as follows:

§ 654.24 Zone modification procedures.

(a) *Procedure for modifying existing restricted fishing areas for stone crab fishermen in the FCZ* (inshore of 83.0° W. longitude) *off Pasco, Hernando, and Citrus Counties, Florida, by notice.* (1) The Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee (Committee) may propose modifications to the exclusive fishing areas for shrimping and for crabbing provided by § 654.23 to resolve any conflict in both State waters and the FCZ inshore of 83.0° W. longitude, at its public meetings. Such a zoning proposal for fishing areas may be initiated at any time by the Committee in response to changing conditions in the fishery and may include zoning configurations that fluctuate or change on specific dates to allow for optimum production by the user groups affected.

(2) The Committee will submit the zoning proposal to the State regulatory agencies, Florida Department of Natural Resources (FDNR) and Florida Marine Fisheries Commission (FMFC), for implementation in State waters and may submit the proposal to the Council for initial review and comment.

(3) After the State has accepted the proposal for promulgation as a rule, the State may request that the Council adopt that portion of the zoning proposal relating to the FCZ. The Council will review the proposal and administrative record developed by the State in support of its proposed rule and will recommend to the Regional Director that the proposal be implemented (or not implemented) or implemented with minor modifications in the FCZ. If the Council or Regional Director determine that the opportunity for public comment through the State system was inadequate, they may hold public hearings on the zoning proposal affecting the FCZ. The Council may also avail itself of the advice and counsel of its Scientific and Statistical Committee, Shrimp and Stone Crab Advisory Panels, or an Ad Hoc Advisory Panel consisting of persons fishing the Federal waters, in the review of the proposal or to propose zoning modifications. Should the Council recommend that the Federal portion of the proposal not be implemented or be modified, it will immediately notify the State and specify its reasons for such action.

(4) If the Secretary, after receiving the recommendations of the Council, concludes that such recommendations are consistent with the objectives of the FMPs, the Magnuson Act, or other applicable law, the Secretary will implement them by notice in the **Federal Register**. If the Regional Director determines that the recommended action of the Council should not be implemented, the Regional Director will immediately notify the Council and State of his reasons and may suggest an alterative to the recommended action. The Council, after conferring with the State, will immediately advise the Regional Director as to the acceptability of the alternative.

(5) In the event that the Committee fails to act or is unable to develop a compromise solution for fishing in the area, or if the Committee is abolished or otherwise becomes nonfunctional, the Council will call upon the FMFC to provide the recommendations under paragraphs (a)(1) and (2) of this section. The Council may then utilize its own Ad Hoc Advisory Panel consisting of fishermen from the area affected to advise the Council on the acceptability of these recommendations or to propose zoning modifications.

(6) If the Committee is enlarged or restructured to have authority over zoning for other counties, the

restructured committee may provide recommendations under paragraphs (a)(1) and (2) of this section and the Secretary may implement such recommendations under paragraph (a)(4) of this section.

(7)(i) The Secretary may, with the concurrence of the Council, modify existing zoning by publishing a notice in the **Federal Register** if the Regional Director determines that the procedures in paragraphs (a)(1)–(5) of this section cannot be followed in time to prevent inequitable access to the resources.

(ii) The Secretary will invite public comment prior to the effective date of the notice. If the Secretary determines, for good cause, that a notice must be promulgated immediately, comments will be received for 15 days after the effective date of the notice.

(iii) As soon as practicable after the end of the comment period, the Secretary will either rescind, modify or allow the modification to the existing zoning to remain unchanged through notice in the **Federal Register.**

(8)(i) In the event that the Regional Director determines that the procedural paragraphs (a)(1)–(3) of this section cannot be followed in time to resolve or prevent serious conflict the Secretary may, with the concurrence of the Council, publish a notice in the **Federal Register** to:

(A) Close the area or a portion thereof to stone crab fishing for a period not to exceed 30 days; and/or

(B) Modify the configuration of the existing boundaries of the fishing areas as specified in the rule in the FCZ for part of or for the duration of the stone crab season and close the fisheries in the areas affected for 10 days to allow movement of crab traps into the crabbing areas specified in the rule.

(ii) Not later than 72 hours after the effective date of the modification to the regulation under paragraph (b)(1) of this section, the Regional Director will conduct a public fact-finding hearing. Notice of such hearing will be provided to the following:

(A) The Chairman of the council or his designee;

(B) The Director of the FDNR or his designee;

(C) The Chairman of the FMFC or his designee;

(D) Local news media as may be appropriate;

(E) Such user group representatives or organizations as may be appropriate and practicable; and

(F) Others deemed appropriate by the Regional Director.

(iii) The fact-finding hearing will be for the purpose of evaluating the following:

(A) The existence and seriousness of the conflict needing resolution by the modification to the existing rule;

(B) The appropriate duration of the modification to the existing rule;

(C) Other solutions to the conflict; and

(D) Other relevant matters.

(iv) The Secretary, within ten days after conclusion of the factfinding hearing will either rescind, modify or allow the modification to the existing rule to remain unchanged through notice in the **Federal Register.**

(b) The Secretary, in consultation with or based on recommendations by the Council, may by regulatory amendment, take such action as may be necessary and appropriate to resolve any conflict in the area off Pasco, Hernando and Citrus Counties, Florida (inshore of 83.0° W. longitude) or any other part of the FCZ, provided such action is taken in a manner which to the maximum extent practicable is consistent with action recommended by or taken by the adjacent coastal State.

(c) Nothing contained in this section limits the authority of the Secretary to issue emergency regulations under section 305(e) of the Magnuson Act.

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

6. The Table of Contents is amended by redesignating §§ 658.24–658.26 as §§ 658.25–658.27 and by adding a new entry "§ 658.24 Zone modification procedures" and by revising the entry for § 658.23 from "Stone crab area closure" to read "Stone crab area restrictions.

7. Section 658.2 is amended by adding the definitions of "Committee," "Council," "FDNR," "FMFC," "Secretary," and "State" to read as follows:

§ 658.2 Definitions.

* * * * *

Committee means the Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee.

Council means the Gulf of Mexico Fishery Management Council, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

* * * * *

FDNR means the Florida Department of Natural Resources.

FMFC means the Florida Marine Fisheries Commission.

* * * * *

Secretary means the Secretary of Commerce, or a designee

State means the State of Florida.

* * * * *

8. Section 658.23 is amended by redesignating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 658.23 Stone crab area restrictions.

* * * * *

(b)(1) Between 0001 hours October 5 to 2400 hours May 20 each year, it is unlawful to fish for shrimp in the following two areas of the FCZ (see Figure 4):

(i) That area of the FCZ bounded by a continuous line connecting the following points expressed by latitude and longitude (LORAN notations are unofficial, and are included only for the convenience of fishermen):

AREA I

Point	Latitude	Longitude	LORAN rate 7980			
			W	X	Y	Z
R	28°49.77' N	82°56.31' W	14375			62975
S	28°53.55' N	83°02.89' W	14375			63020
T	28°36.11' N	83°02.77' W	14325			63020
U	28°31.25' N	82°55.15' W	14325			62970
Y	28°42.07' N	82°55.37' W	14355			62970
Z	28°42.52' N	82°56.10' W	14355			62975
R	28°42.77' N	82°56.31' W	14375			62975

(ii) That area of the FCZ bounded by a continuous line connecting the following points expressed by latitude and longitude (LORAN notations are unofficial, and are included for the convenience of fishermen):

AREA II

Point	Latitude	Longitude	LORAN rate 7980			
			W	X	Y	Z
X[1]	28°37.88' N	82°56.02' W	14347.2	31285		62955
V	28°29.80' N	82°52.86' W	14325	31285		62955
W[1]	28°28.93' N	82°51.50' W	14325		45060	62946.3
Thence northerly along the State boundary to Point X.						

[1] These points are on the State boundary.

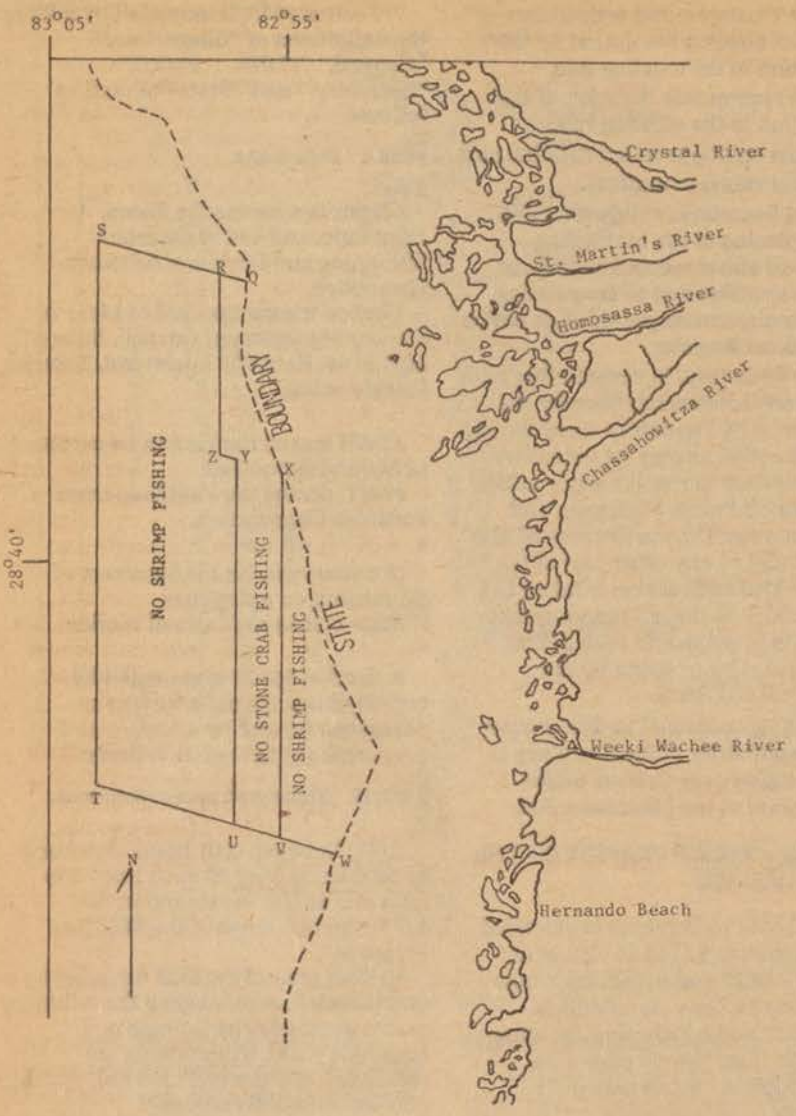

Figure 4. Chart delineating areas closed to fishing for shrimp or stone crab (not to scale, for illustrative purposes only).

(2) No person may place into the management area any article, including fishing gear, with the intent to interfere with fishing or obstruct or damage fishing gear or fishing vessels of others; or to utilize willfully fishing gear in such a fashion that it obstructs or damages the fishing gear or fishing vessel of another.

9. Sections 658.24–658.26 are redesignated as §§ 658.25–658.27 and a new "§ 658.24 Zone modification procedures" is added to read as follows:

§ 658.24 Zone modification procedures.

(a) *Procedure for modifying existing restricted fishing areas for shrimp fishermen in the FCZ* (inshore of 83.0° W. longitude) *off Pasco, Hernando, and Citrus Counties, Florida, by notice.* (1) The Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee (Committee) may propose modification to the exclusive fishing areas for shrimping and for crabbing provided by § 658.23 to resolve any conflict in both State waters and the FCZ inshore of 83.0° W. longitude, at its public meetings. Such a zoning proposal for fishing areas may be initiated at anytime by the Committee in response to changing conditions in the fishery and may include zoning configurations that fluctuate or change on specific dates to allow for optimum production by the user groups affected.

(2) The Committee will submit the zoning proposal to the State regulatory agencies, Florida Department of Natural Resources (FDNR) and Florida Marine Fisheries Commission (FMFC), for implementation in State waters and may submit the proposal to the Council for initial review and comment.

(3) After the State has accepted the proposal for promulgation as a rule, the State may request that the Council adopt that portion of the zoning proposal relating to the FCZ. The Council will review the proposal and administrative record developed by the State in support of its proposed rule and will recommend to the Regional Director that the proposal be implemented (or not implemented) or implemented with minor modifications in FCZ. If the Council or Regional Director determine that the opportunity for public comment through the State system was inadequate, they may hold public hearings on the zoning proposal affecting the FCZ. The Council may also avail itself of the advice and counsel of its Scientific and Statistical Committee, its Shrimp and Stone Crab Advisory Panels, or an Ad Hoc Advisory Panel consisting of persons fishing the Federal waters, in the review of the proposal or to propose zoning modifications. Should the Council recommend that the Federal portion of the proposal not be implemented or be modified, it will immediately notify the State and specify its reasons for such action.

(4) If the Secretary, after receiving the recommendations of the Council, concludes that such recommendations are consistent with the objections of the FMPs, the Magnuson Act, other applicable law, the Secretary will implement them by notice in the **Federal Register.** If the Regional Director determines that the recommended action of the Council should not be implemented, the Regional Director will immediately notify the Council and State of his reasons and may suggest an alternative to the recommended action. The Council, after conferring with the State, will immediately advise the Regional Director as to the acceptability of the alternative.

(5) In the event that the Committee fails to act or is unable to develop a compromise solution for fishing the area, or if the Committee is abolished or otherwise becomes nonfunctional, the Council will call upon the FMFC to provide the recommendations under paragraphs (a)(1) and (2) of this section. The Council may then utilize its own Ad Hoc Advisory Panel consisting of fishermen from the area affected to advise the Council on the acceptability of these recommendations or to propose zoning modifications.

(6) If the Committee is enlarged or restructured to have authority over zoning for other counties, the restructured committee may provide recommendations under paragraphs (a)(1) and (2) of this section and the Secretary may implement such recommendations under paragraph (a)(4) of this section.

(7) (i) The Secretary may, with the concurrence of the Council, modify existing zoning by publishing a notice in the **Federal Register** if the Regional Director determines that the procedures in paragraphs (a)(1)–(5) of this section cannot be followed in time to prevent inequitable access to the resources.

(ii) The Secretary will invite public comment prior to the effective date of the notice. If the Secretary determines, for good cause, that a notice must be promulgated immediately, comments will be received for 15 days after the effective date of the notice.

(iii) As soon as practicable after the end of the comment period, the Secretary will either rescind modify or allow the modification to the existing zoning to remain unchanged through notice in the **Federal Register.**

(8)(i) In the event that the Regional Director determines that the procedural paragraphs (a)(1)–(5) of this section cannot be followed in time to resolve or prevent serious conflict, the Secretary may, with the concurrence of the Council, publish a notice in the **Federal Register** to

(A) Close the area or portion thereof to shrimp fishing for a period not to exceed 30 days; and/or

(B) Modify the configuration of the existing boundaries of the fishing areas as specified in the rule in the FCZ for part of or for the duration of the stone crab season and close the fisheries in the areas affected for 10 days to allow stone crab traps to be moved. Provide such buffer zones where no fishing is allowed, as are deemed necessary.

(ii) Not later than 72 hours after the effective date of the modification to the regulation under paragraph (b)(1) of this section, the Regional Director will conduct a public fact-finding hearing. Notice of such hearing will be provided to the following:

(A) The Chairman of the Council or his designee;

(B) The Director of the FDNR or his designee;

(C) The Chairman of the FMFC or his designee;

(D) Local news media as may be appropriate;

(E) Such user group representatives or organizations as may be appropriate and practicable; and

(F) Others deemed appropriate by the Regional Director.

(iii) The fact-finding hearing will be for the purpose of evaluating the following:

(A) The existence and seriousness of the conflict needing resolution by the modification to the existing rule;

(B) The appropriate duration of the modification to the existing rule;

(C) Other solutions to the conflict; and

(D) Other relevant matters.

(iv) The Secretary, within ten days after conclusion of the factfinding hearing will either rescind, modify or allow the modification to the existing rule to remain unchanged through notice in the **Federal Register.**

(b) The Secretary, in consultation with or based on recommendations by the Council, may by regulatory amendment take such action as may be necessary and appropriate to resolve any conflict in the area off Pasco, Hernando and Citrus Counties, Florida (inshore of 83.0° W. longitude) or any other part of the FCZ, provided such action is taken in a manner which to the maximum extent practicable is consistent with action recommended by or taken by the adjacent coastal State.

(c) Nothing contained in the section limits the authority of the Secretary to issue emergency regulations under section 305(e) of the Magnuson Act.

[FR Doc. 84-20323, Filed 7-27-84; 4:52 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 149
Wednesday, August 1, 1984

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 Parts 1006 and 1012

[Docket Nos. AO-356-A20 and AO-347-A23]

Milk in the Upper Florida and Tampa Bay Marketing Areas; Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts a change in the Upper Florida and Tampa Bay milk orders. As adopted, the change in the plant location adjustment provisions will insure that the Class I milk price for fluid milk products transferred from a pool plant under the Upper Florida order or the Tampa Bay order that is located outside Florida to a pool plant regulated by another Federal milk order shall be not less than the Class I price under such other Federal milk order applicable at the location of the transferor plant. The change, based on a proprietary handler's proposals, were considered at a public hearing held at Orlando, Florida, on December 6, 1983. The changes are necessary to reflect current marketing conditions and to insure orderly marketing conditions in the Upper Florida, Tampa Bay and other marketing areas.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture Washington, D.C. 20250 (202) 447-7311.

SUPPLEMENTARY INFORMATION: 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. The amended orders will promote more orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued November 10, 1983; published November 17, 1983 (48 FR 52318).

Extension of Time for Filing Briefs: Issued February 21, 1984: published February 27, 1984 (49 FR 7133).

Recommended Decision: Issued May 17, 1984; published May 22, 1984 (49 FR 21537).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Upper Florida and Tampa Bay marketing areas. The hearing was held, 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 (7 CFR Part 900), at Orlando, Florida on December 6, 1983. Notice of such hearing was issued on November 10, 1983 and published November 17, 1983 (48 FR 52318).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, Final Decision—Upper Florida and Tampa Bay on May 17, 1984, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

Two new paragraphs are added at the end of issue No. 1 of the findings and conclusions in the recommeded decision.

The material issues on the record of the hearing relate to:

1. Location adjustments applicable to a supply plant at Dover, Delaware, but pooled under either the Upper Florida or Tampa Bay milk orders that also transfers bulk milk from the Dover location to a plant regulated under the Middle Atlantic order.

2. Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

The plant location adjustment provisions of the Upper Florida and Tampa Bay milk orders should be changed to provide that milk transferred to an other order plant for Class I use from an Upper Florida or Tampa Bay pool plant located outside Florida would be subject to a Class I price that is not lower than that which would be applicable at the transferor plant if it were regulated under the other Federal order. The effect of this change would be to limit the amount of the location adjustment credit to Upper Florida and Tampa Bay handlers so that the Class I price for milk moved to other order plants would be comparable to the Class I price applicable to handlers competing with the transferee plants.

The location adjustment provisions of the Upper Florida order reduce the Class I price by 10 cents outside the State of Florida and 70-85 miles from the nearer of Jacksonville or Tallahassee, plus 1.5 cents for each additional 10 miles. For the Tampa Bay order, the reduction is 1.5 cents per hundredweight for each 10 miles from Tampa, Florida. The basic purpose of these provisions is to provide a transportation allowance to handlers who assemble milk at plant locations outside the marketing area and move it to plants within the marketing area for use in Class I so that a handler's cost of milk so moved is more competitive with that for milk obtained locally.

Cumberland Farms Food Stores, Inc., (Cumberland), which operates distributing plants under the Southeastern Florida and Middle Atlantic federal milk orders, obtains most of its milk supply for its pool distributing plant at Riviera Beach, Florida from its supply plant located at Dover, Delaware. Since 1981, the Dover plant, which is located within the Middle Atlantic (Order 4) marketing area, has delivered a large enough proportion of its receipts to the Riviera Beach plant each month to be a Southeastern Florida (Order 13) pool plant. However, for the month of August, 1983 the Riviera Beach plant, supplied in this manner, was regulated by the Upper Florida milk order (Order 6). The remainder of the Dover plant's

milk receipts are delivered to the handler's fluid milk plant at Florence, New Jersey where the milk is allocated to Class I and Class II use acording to the provisions of Order 4.

The issue raised in this proceeding is almost identical to an issue resolved in a final decision issued May 13, 1983 (48 FR 22303) concerning the Southeastern Florida milk order. That decision eliminated a Class I price advantage of $1.13 a hundredweight that Cumberland had in the Order 4 marketing area under the provisions of the Southeastern Florida order for milk transferred to Cumberland's Florence, New Jersey distributing plant from the Dover supply plant. The amendment resulting from that proceeding became effective August 1, 1983.

Proponents' Presentations

A. The proposed changes were initiated by the Southland Corporation (Southland) and were supported by other witnesses. The following points were made by the Southland witness in support of its proposals to change the plant location adjustment provisions of the Tampa Bay (Order 12) and Upper Florida (Order 6) milk orders.

1. Southland is a proprietary handler and operates distributing plants regulated by the Middle Atlantic, Tampa Bay and Southeastern Florida milk orders.

2. The Southland plant at Waldorf, Maryland is regulated by Order 4 and distributes fluid milk products in various segments of the Order 4 area. The fluid milk products distributed in the Philadelphia segment of the Order 4 market are custom-bottled for Southland by other Order 4 handlers.

3. The Southland plant at Winter Haven, Florida is regulated by Order 12 and distributes fluid milk products in the Order 6 and Order 12 marketing areas.

4. The Southland plant at Miami, Florida is regulated by Order 13 and distributes fluid milk products in the Southeastern Florida marketing area.

5. The Upper Florida and Tampa Bay milk orders should be amended to assure that a handler operating a supply plant at Dover, Delaware and regulated by one of the Florida orders does not have a lower Class I price than the Order 4 price for milk transferred from Dover, Delaware to Florence, New Jersey.

6. This problem is a continuation of one that existed under Order 13 until that order was amended August 1, 1983 (48 FR 22303).

7. The location adjustment provisions of Order 13, prior to the 1983 amendment, provided Cumberland with a $1.13 a hundredweight Class I price advantage in the Order 4 marketing area.

8. When the Dover plant is regulated by Order 6, the price advantage is $0.96 a hundredweight.

9. For August 1983, the Order 6 blend price at Dover was 26 cents higher than the Order 4 blend price for base milk at that location. None of the 96-cent advantage had to be used by Cumberland to achieve a competitive blend price with Order 4 handlers.

10. Class I differentials under federal milk orders generally increase 1.5 cents for each 10 miles of distance from the Chicago milk production area. Under this system, Jacksonville, Florida (a basing point under Order 6) is in close alignment with the Chicago area. The Order 4 Class I alignment is somewhat higher than the distance from the Chicago area would warrant.

11. Even if the Class I differentials of Orders 4 and 6 were perfectly aligned with the Chicago area, they would not be aligned with each other.

12. The proposals need to be adopted to overcome the alignment problem and to provide uniform milk costs in the Order 4 marketing area.

13. The fact that Cumberland incurs some costs to operate the Dover plant is irrelevant to the issue.

B. Southland's proposals were supported by the New Jersey Milk Industry Association, Inc. and the Milk Distributors Association of the Philadelphia Area, Inc.

1. Association members are regulated by the New York-New Jersey (Order 2) of the Middle Atlantic Orders.

2. Competition for milk sales among handlers in the New Jersey-Philadephia segments of the Order 2 and Order 4 marketing areas is keen.

3. Consumers in this area pay some of the lowest prices for milk in the nation, even though handlers pay relatively high Class I prices and labor costs are right.

4. Bidding for sales to large supermarkets, schools, and institutions is most keen. It is not unusual for the winning bidder to obtain the business at a low price determined by the fourth or fifth decimal point.

5. The cost of Class I milk constitutes, by far, the greatest cost element in such a bid price. Therefore, it is essential that regulated competing handlers in the Order 2 and Order 4 marketing areas be provided with equity in their regulated cost of milk.

6. The unique pricing problem under consideration at this hearing was not visualized when the orders were promulgated. The situation demonstrates how changes in milk marketing require that the orders be amended to ensure handler equity.

7. Substantial quantities of fluid milk products are moved between the New York-New Jersey and Middle Atlantic orders.

8. Although alignment of pricing between these two orders has been substantially achieved, any inequity of regulated pricing which occurs within one of these orders causes equal inequity among handlers regulated by the other order.

9. The 96-cent advantage that Cumberland has in the Order 4 marketing area amounts to better than 8 cents per gallon, and on the basis of the volume of milk distributed by its Florence, New Jersey, plant, has the potential of impairing competitive equity in the market.

C. Southland's proposals also were supported by the Upper Florida Milk Producers Association and Tampa Independent Dairy Farmers Association.

1. The associations are the major suppliers of milk to handlers regulated under Order 6 and 12.

2. Even though the cost advantage obtained by Cumberland occurred in only one month under the Upper Florida order, it is reasonable to assume that it could occur again.

3. The Orlando area is a very fast growing part of the Upper Florida marketing area and Cumberland has stores in the Orlando area.

Opponents' Presentations

Southland's proposals were opposed by Eastern Milk Producers Cooperative Association, Inc. (Eastern), and Cumberland on the following basis:

1. Eastern is a regional cooperative association with more than 4000 members located throughout the Northeast, and it is the principal supplier to the Dover supply plant (approximately 100 members shipping to Dover).

2. The Dover supply plant was a pool plant under the Upper Florida order for August 1983 and it may on occasion be regulated by that order again.

3. Cumberland is a vertically integrated milk processing-convenience dairy store operation, and all of its fluid milk products are sold out of its own stores.

4. Southland's proposals are aimed at extending to Orders 6 and 12 the discriminatory provisions adopted under Order 13 on August 1, 1983.

5. Southland's proposals would raise the procurement cost of Class I milk to Cumberland and thereby discourage the use of milk shipped to the supply plant at Dover.

6. Prior to October 1981, Cumberland procured almost its entire supply of milk

for the Riviera Beach plant, from the Independent Dairy Farmers Association (IDFA).

7. IDFA, because of its near monopoly over the supply of milk, exacted excessive over-order Class I prices from Cumberland as well as from other handlers.

8. The Dover supply plant is an integral part of the supply system for the Riviera Beach plant, and milk not needed at the Riviera Beach plant is transferred from the Dover plant to Cumberland's distributing plant at Florence, New Jersey.

9. The Florence, New Jersey plant receives most of its milk supply from sources other than the Dover supply plant.

10. All of the milk processed at the Florence, New Jersey, plant is distributed entirely to Cumberland's stores located in New Jersey, Pennsylvania, and Delaware.

11. There is no disorderly marketing in the Middle-Atlantic or Florida order areas attributable to the current provisions of the orders.

12. The proposals, if adopted, could cause Cumberland to cease purchasing milk from the Dover supply plant for the use of the Riviera Beach plant, resulting in the "dumping" of milk in the already over-supplied Order 4 pool.

13. Cumberland, in order to operate the Dover supply plant, incurs additional costs, e.g., transportation from plant to plant, shrinkage, receiving and cooperative handling charges, none of which are reflected in order prices.

14. These additional costs incurred by Cumberland, reduce the alleged price advantage in the Order 4 area to such an extent that they cannot serve as a justification for adopting either of Southland's proposals.

15. The Secretary would be derelict in his duty if he fails to take these relevant costs into consideration.

16. In order to have price differences that would justify order amendments, such differences must translate into procurement cost differences of substance, impact on large quantities of milk and be passed on in the market place in a manner that causes disorderly marketing.

17. There is no evidence that the alleged cost advantage is reflected in market prices to the detriment of competing handlers.

18. There appears to be no concern by Order 4 handlers interfacing with Cumberland's stores in the Philadelphia-South Jersey-Delaware area regarding misalignment of order prices.

19. Southland's proposals represent a major departure from the procedure for pricing intermarket tranfers by the Department. Following the 1962 Lehigh Valley decision, milk orders were revised to facilitate the movement of milk between federally regulated markets. Specifically, milk transferred from a plant regulated under one order to a plant regulated under another order is classified and priced in the shipping market (transferor plant location) where it is pooled in accordance with its assignment to classes under the order regulating the transferee plant. Southland's proposals would create another class of milk with its own price for milk transferred to another order plant.

20. Southland's proposals would benefit the producers in the transferor market, rather than the producers in the transferee market where the alleged misalignment problem supposedly exists.

21. Southland's proposals are discriminatory, predatory and would serve as a catalyst for disrupting the interorder pricing provisions used throughout the Federal order program.

22. Cumberland has not changed its out-of-store pricing since October 1981 by reason of the Dover plant operation—either in the Florida or the Middle Atlantic area.

23. Cumberland decided to acquire most of its milk supply for its Riviera Beach plant through the Dover supply plant in order to avoid the over-order premiums in the Southeastern Florida market.

24. Cumberland introduced an exhibit for the purpose of showing that their alleged price advantage of 96 cents should be reduced to approximately 18 cents per hundredweight because of additional costs.

Discussion of the Issues

1. The chief issue raised by this proceeding is whether the Upper Florida and Tampa Bay milk orders, Orders 6 and 12, respectively, should be amended so that for milk transferred from a Dover, Delaware, supply plant to a Florence, New Jersey, distributing plant, the Class I price at Dover shall be not less than the Class I price of the Middle Atlantic milk order at the location of the Dover plant.

The Southland Corporation operates pool distributing plants under Orders 4, 12, and 13 and distributes fluid milk products in those marketing areas. It distributes fluid milk products in the Order 6 marketing area from its plant under Order 12. Southland claims that the Class I prices of Order 4 and the Florida orders are not precisely aligned and that this results in competitive inequity among handlers selling milk in the Order 4 marketing area. A number of handlers regulated by Orders 2 and 4 reiterated this view through a witness and stressed that any inequity of regulated pricing which occurs within any of these orders causes equal inequity among handlers regulated by the other order.

The Class I differentials of federal milk orders are aligned from a common basing point. The geographical structure of Class I differentials corresponds closely to a basing point system with Eau Claire, Wisconsin, as the base. The Class I differentials increase with the distance from the Upper Midwest region, the most important source of Grade A milk supplies in excess of regional fluid needs.

More specifically, Class I differentials under federal milk orders generally increase 1.5 cents for each 10 miles of distance from Eau Claire, Wisconsin. Because federal milk orders in the Northeast and in Florida are a considerable distance from Eau Claire, prices in those respective areas are about the same. The Class I differential at Philadelphia, Pennsylvania, under the Middle Atlantic milk order is $2.78, to which is added a 6-cent direct delivery differential for a total of $2.84. Under the Upper Florida milk order, the Class I differential is $2.85.

When Class I price differentials in federal milk order markets that are in different directions from Eau Claire are again adjusted 1.5 cents per 10 miles toward locations other than Eau Claire, substantial differences at a given plant location can result. When the Upper Florida order Class I differential ($2.85) is adjusted $1.15 to Dover, Delaware, the Order 6 Class I differential there is $1.70. At Dover, the Class I price differential under Order 4 is $2.66 ($2.78—$0.12). Milk at Dover, therefore, is available to the Middle Atlantic pool plant of Cumberland at Florence, New Jersey for Class I use at $0.96 a hundredweight less than the same milk would cost if the Dover plant were pooled under Order 4. As a result, the Florence plant has a competitive advantage in the Order 4 market of $0.96 a hundredweight on all milk moved from Dover to Florence which is assigned to Class I. The hearing record evidence is that the volume may be as much as 2.5 million pounds a month.

An apparent misalignment between Class I prices would not necessarily lead to competitive inequities in a market if a handler with a Class I price advantage had to pay more than the producer price required by the order under which he is pooled to attract milk from producers who normally would supply another market. However, the

record established that the Upper Florida blend price adjusted to Dover is above the Order 4 price to producers for deliverise of base milk to the same location. Using August 1983 data, the Upper Florida blend price adjusted to Dover was $13.99 a hundredweight while the base price under Order 4 for that location was $13.73. The handler operating the Dover plant under Order 6 was able to attract a sufficient supply of producer milk by paying its producers a price at least equivalent to prices paid to neighboring producres by Order 4 handlers without giving up any of the price advantage it has on the portion of its receipts which are used in Class I in the Order 4 area.

The Cumberland witness denied that the price discrepancy between Orders 4 and 6 at Dover results in any substantial procurement cost advantage for Cumberland. Also, the witness denied that the advantage impairs competitive equity between handlers, or that it affects a significant amount of milk. However, an examination of the record indicates that Cumberland has a substantial cost advantage on a significant quantity of milk. Cumberland has the capability of impairing competitive equity in the Order 4 and Order 2 markets.

For any length of time, the Class I price level of a market cannot exceed the cost of buying the milk in another supply area and transporting it to the consuming market. If a price advantage exists long enough for handlers to recognize the advantage of another supply, they will change their buying arrangements. An important guide to the proper level of Class I prices in a given market is the cost of alternative supplies. The milk moved from Dover to Florence may represent a small percentage of the total milk marketed in the Middle Atlantic marketing area, but when Cumberland's $0.96 price advantage is considered, the potential disruptive effect of the quantity of milk involved is not negligible. Under the provisions of Orders 4 and 6, there is clearly a price advantage of $0.96 a hundredweight at Dover for a plant pooled under Order 6.

Cumberland introduced an exhibit to show that the alleged price advantage of 96 cents is reduced to about 18 cents a hundredweight because of costs incurred by the operator of the Dover plant.

Nearly all of the costs claimed by Cumberland would be incurred in operating the Dover plant under any federal milk order. If the Dover plant were an Order 4 supply plant, milk received there and used in Class I would be subject to the Order 4 price at that location, 96 cents more than the Class I price applicable under Order 6. No allowance would be made for the extra costs of operating a supply plant. The costs of operating a supply plant is one of the factors implicitly accepted by Cumberland in its decision to use that facility to supply milk to the Riviera Beach plant. The costs specified by Cumberland should not be considered as offsetting the Order 6 price advantage at Dover.

Although, no separate presentation was made at the hearing for amending the Tampa Bay milk order as proposed by Southland in the hearing notice, there is ample evidence on the record to support such an amendment. The hearing record is abundantly clear that the inter-order price alignment problem that was corrected under Order 13 in a 1982 proceeding, and again occurred under Order 6 for August 1983, could conceivably happen under Order 12. The Class I differentials of Orders 4 and 12, the distance between the order areas, and the Class I utilization under the two orders all point towards a similar advantage for Cumberland if the Dover plant were regulated by Order 12.

Even though the Dover plant was regulated by Order 6 in only August 1983, such regulation could be repeated. The record established that Orlando, Florida is one of the fastest growing areas in Florida. Also, it is a popular resort area. These factors could generate a significant increase in fluid milk sales in the Order 6 area. This situation, combined with the fact that Cumberland has dairy stores in the Orlando area could set the stage for a repetition of regulation because the quantity of fluid milk sales by Cumberland in the Order 13 area and the Order 6 area are very similar.

Also, a decision by a competitor to reduce its fluid milk disposition in the Upper Florida or Tampa Bay areas could affect the pooling status of the Riviera Beach plant if Cumberland were to obtain a share of such sales. Under circumstances such as these, it is reasonable to conclude that the Riviera Beach plant of Cumberland Farms could become regulated under any of the three Florida milk orders.

The plant location adjustment provisions of Florida milk orders have been coordinated from the time they were promulgated, considering their close proximity. Under these circumstances, it would waste public and private resources to wait until the pooling of distant milk supplies that developed for Orders 13 and 6 also developed for Order 12 and then convene a hearing to consider the issue a third time. Accordingly, the Tampa Bay milk order also should be amended to establish all three Florida milk orders on the same basis concerning the possible regulation of the Dover, Delaware plant under any one of them.

The proposal to correct the problem of inequitable pricing in an other order area by amending Orders 6 and 12 to provide that the Class I price applicable on milk transferred to an other order plant be adjusted for location to a level no lower than the price applicable at that location under the other order is a reasonable and effective method of dealing with the situation. Adoption of the proposal would result in uniform prices paid by handlers regulated by Order 4. It is common practice to incorporate provisions under federal milk orders to ensure that handlers are faced with comparable costs for milk use in Class I irrespective of the source of such milk supply.

Adoption of the proposal would not establish a barrier to movements of milk between federal milk order marketing areas. The milk transferred from Dover to Florence does not move between federal order marketing areas but between plants regulated under different orders but located within the Order 4 marketing area. The adopted change would assure uniform pricing of milk to handlers located within the same area and by that assurance, would not inhibit milk transfers between those handlers.

Cumberland is not the exclusive target of the amendments adopted in this decision. Any handler with a plant located outside Florida but pooled under Order 6 or Order 12 who elects to sell milk for fluid use to nearby plants would be restrained from doing so at less than the local federally regulated price. The facility at Dover could be operated by any handler, even one who could establish a bottling and distributing operation there. Such opportunities for use of federal milk order provisions to obtain a position of competitive advantage in the market should be eliminated.

The fact that the additional money collected under the adopted proposals would be paid into the Order 6 or Order 12 pools rather than into the Order 4 pool may be considered equitable even though the milk moved to Florence from Dover is considered surplus to the fluid needs of the Riviera Beach plant. If the Florida plant obtained a supply of milk from some other region, the milk now being moved to Florida from Dover likely would be added to the Order 4 pool.

In a post-hearing brief, Cumberland incorporated by reference its post-hearing brief dated October 10, 1982

which was submitted in connection with the Order 13 proceeding. We must point out that while the issues of this proceeding for Orders 6 and 12 are similar to the issue considered for Order 13, the testimony and evidence of the two proceedings may not be identical. Accordingly, Cumberland's 1982 brief is not appropriate in all respects for consideration in the light of the particular evidence submitted by participants for the Order 6 and Order 12 proceeding.

In the brief, Cumberland said that Southland was the "ostensible" proponent of the proposals adopted herein. Cumberland said that although the Southland plant at Waldorf, Maryland, is regulated by Order 4, the handler has no significant competitive interaction with Cumberland's Order 4 plant at Florence, New Jersey. Cumberland concluded that in this proceeding, Southland has acted as the "alter ego," i.e., secondself or trusted friend, of IDFA, the cooperative operating in the Order 13 area.

Cumberland did not say specifically why it perceives Southland to be in this role. However, it did say in another part of the brief that if Cumberland were "forced," presumably by the amendments adopted herein, to buy its milk supply for the Riviera Beach plant from IDFA, Cumberland would once again be subject to over-order prices. It said that the IDFA over-order prices induced Cumberland to change its source of supply in the first place.

We cannot accept the view that Southland, apparently, is acting to force Cumberland to buy milk from IDFA at over-order prices. The fact is that when the Riviera Beach plant is regulated by Orders 6 or 12, Cumberland is provided with a price advantage on its fluid milk sales in Order 4. A similar advantage under Order 13 was eliminated by an amendment effective August 1, 1983 and previously cited herein. As the proponent of the proposals for Orders 6 and 12, Southland has identified the marketing problem and has proferred a reasonable solution. The proposals by Southland are supported by an association representing a substantial number of handlers who are regulated by Orders 2 and 4.

We believe that this view reflects the marketing conditions affecting the proposals to amend Orders 6 and 12. The changes proposed herein would not force Cumberland to buy milk from IDFA or from anyone else. The pricing of milk moved to Florida is not changed by the amendments adopted herein.

In the brief, Cumberland said that there are no disorderly marketing conditions in the Order 4 area that warrant the adoption of Southland's proposals. It stressed particularly that there has been no price cutting by handlers for fluid milk sales, that price competition out of stores is not severe and that the prices charged by stores in the Philadelphia area can be described as "healthy" competition.

The record established that there is no apparent price cutting for consumer sales. However, the witness for Order 2 and Order 4 handlers testified that bidding for sales to large supermarkets, schools and institutions is "most keen." He said that it is not unusual for the winning bidder to obtain business at a low price determined by the fourth or fifth-decimal point. It is understandable that the handler witness would stress that it is essential that regulated competing handlers in the Order 2 and Order 4 marketing areas be provided with equity in their regulated cost of milk. We accept the view that the price advantage available to Cumberland, which stems from a technical flaw in the order provisions, is a potentially disruptive situation that should not result from federal milk regulation.

In the brief, Cumberland was uncertain about whether the Riviera Beach plant would be regulated by Order 6 again. At one place in the brief, Cumberland said that such regulation in not likely to occur again in the foreseeable future. In another place, it is stated that regulation of the plant under Order 6 was an isolated incident and not expected to recur. In another place, it is claimed that if the Southland proposals are adopted, a serve disruption of marketing conditions could occur if the Riviera Beach plant were regulated by Order 6. Presumably, this latter view is a reason that Cumberland opposes adoption of the proposals.

As stated earlier in this decision, we believe that the plant could be pooled under Order 6 or 12 in the future. This is one reason that the Southland proposals should be adopted. The chief reason is that adoption of the proposals will eliminate the technical flaw in Orders 6 and 12 that could provide a price advantage to any handler who met the conditions for exploiting it.

In the brief, Cumberland stressed that if it has to pay the same price for milk that Order 4 handlers must pay, it would have to raise prices to consumers. A chief purpose of federal milk orders is to provide class prices that apply uniformly to handlers. Handlers must then compete with each other on the basis of their operating efficiencies. The changes adopted herein will assure the uniform application of Class prices that is required by the Agricultural Marketing Agreement Act of 1937, as amended.

Adoption of the changes provided herein does not create a special Class of milk under Order 6 and 12 as claimed by Cumberland in its testimony and reiterated in its brief. The changes adopted herein would eliminate the price advantage that could accrue to any handler similarly situated as Cumberland, and assure price uniformity among handlers competing for fluid milk sales under Order 4.

The changes adopted are neither radical nor discriminatory as claimed by Cumberland in its brief. It is common practice to incorporate provisions under federal milk orders to ensure that all handlers are faced with comparable costs for milk used in Class I irrespective of the source of such milk supply.

In its brief, Cumberland discussed several legal points which are not a subject to this decision.

A proposal was published in the hearing notice to consider increasing the plant location adjustment rate under Orders 6 and 12. No testimony was presented on the proposal, and no basis exists in the record for making any findings and conclusions concerning the merits of the proposal.

Exceptions to the recommended decision were filed jointly by Cumberland Farms Food Stores, Inc., and Eastern Milk Producers Cooperative Association, Inc. Exceptors stated that the hearing record of the proceeding is devoid of any substantive evidence upon which the adoption of the amendments for the Upper Florida and Tampa Bay orders could be justified. In their view, a preponderance of probative evidence demonstrates that the amendments should be rejected.

Exceptors reiterated, by reference, arguments that were incorporated in their post-hearing brief. The arguments were considered fully in arriving at the findings and conclusions of the recommended decision. Exceptors alluded to current supply conditions for milk in Florida to support their position that the amendments for Orders 6 and 12 should not be adopted. However, the evidence is not in the hearing record and cannot be considered in this proceeding. Further, the supply conditions alluded to by exceptors do not change the basic fact that the location adjustment provisions of the two orders are flawed and need to be amended. For the foregoing reasons, the exceptions are denied.

2. The omission of a recommended decision was not proposed at the hearing by any of the witnesses who

testified on proposals No. 1 and 2. One witness testified that a decision should be issued promptly, but did not propose that a recommended decision be deleted. Further, no information of a compelling nature was presented on the record from which to conclude that the issuance of a recommended decision should be omitted. Accordingly, the proposal for emergency action is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Upper Florida and Tampa Bay orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The folloiwng findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) 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 marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be 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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the orders regulating the handling of milk in the Upper Florida and Tampa Bay marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

March 1984, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the Upper Florida and Tampa Bay marketing areas is approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

List of Subjects in 7 CFR Parts 1006 and 1012

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, D.C., on: July 26, 1984.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order[1] Amending the Order, Regulating the Handling of Milk in the Upper Florida and Tampa Bay Marketing Areas

Findings and Determinations

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Upper Florida and Tampa Bay marketing areas. The hearing was held 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 (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that with respect to each of the orders:

(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 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 is hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Upper Florida and Tampa

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Bay marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending the orders contained in the recommended decision issued by the Deputy Administrator, Agricultural Marketing Service, on May 17, 1984 and published in the Federal Register on May 22, 1984 (49 FR 21537), shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

In § 1006.52(a), the text preceding the table is revised to read as follows:

§ 1006.52 Plant location adjustment for handlers.

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida and more than 70 miles from the nearer of the City Halls of Jacksonville or Tallahassee, Florida, or within the State of Florida shall be adjusted at the rates set forth in the following schedule: *Provided,* that the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order applicable at the location of the transferor plant:

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

In § 1012.52(a), the text preceding the table is revised to read as follows:

§ 1012.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida or within the State of Florida but outside the defined marketing area shall be adjusted at the rates set forth in the following schedule: *Provided,* That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order applicable at the location of the transferor plant:

* * * * *

[FR Doc. 84-20340 Filed 7-31-84; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 73

Access Authorization Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing amendments to its regulations which would require an access authorization program for individuals seeking unescorted access to protected areas and vital islands at nuclear power plants. These amendments represent the culmination of several years of development which included publication of an earlier proposed rule; public hearings; the establishment and recommendations of a Hearing Board, which received additional oral and written communications regarding the proposed rule; and the establishment and recommendations of the NRC Safety/Safeguards Review Committee. Adoption of the proposed amendments, which will affect all nuclear power plant licensees, will result in increased assurance of the trustworthiness of licensee employees and contractor personnel.

DATES: The comment period expires Friday, December 7, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed rule and/or the supporting value/impact analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Single copies of the value/impact analysis may be obtained on request from Kristina Z. Jamgochian, Human Factors and Safeguards Branch, Division of Risk Analysis and Operations, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-7687. Single copies of draft guidance material may be obtained from U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Copies of the value/impact analysis and of comments received by the Commission may be examined and copied for a fee in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom R. Allen, Chief, Regulatory Activities Section, or Henry S. Blumenthal III, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4010; or for information of a legal nature, Robert L. Fonner, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-8692.

SUPPLEMENTARY INFORMATION

Background

On March 17, 1977 (42 FR 14880), the NRC published proposed amendments to its regulations which would establish an access authorization program for individuals who have unescorted access to or control over special nuclear material. Written comments were invited and received. On December 28, 1977 (42 FR 64703), the Commission issued a notice of public hearing on the proposed regulations and subsequently established a Hearing Board to gather additional testimony. A final rule, based upon recommendations of the Hearing Board regarding only fuel cycle facilities and transportation, was published in 10 CFR Parts 11, 50, and 70 on November 21, 1980 (45 FR 76968).

As a result of information gathered at the public hearing and its own examination of the 1977 proposed access authorization program, the Hearing Board made recommendations in its April 1979 report to the Commission concerning future personnel screening requirements applicable to nuclear power reactors ("Authority for Access to or Control Over Special Nuclear Material" (RM50-7). Copies may be obtained from the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555). The Board's recommendations are summarized as follows:

1. That the Commission determine, if it adopts a full-field background investigation program, whether it is required by law to use 10 CFR Part 10 Department of Energy derogatory information criteria. Further legal analysis resulted in the conclusion that the NRC has statutory authority to establish different criteria from those used by the Department of Energy for access authorization (see Commission Decision CLI-80-37, 12 NRC 528, 535 fn 16 (1980)).

2. That the derogatory information criteria contained in 10 CFR 10.11(b)(6), (b)(8), and (b)(9) not be adopted in their present form.

3. That any future access authorization rule for nuclear power reactors not utilize the security background investigation system, criteria, or staffs now existing at the Department of Defense or the Department of Energy.

4. That personnel screening to ensure employee suitability and trustworthiness at nuclear power plants be done by the private sector.

5. That the NRC issue a rule, in lieu of seeking a revised American National Standards Institute Standard N18.17, "Industrial Security for Nuclear Power Plants" (ANSI N18.17), to set specific standards for the conduct of screening programs by licensees and prescribe the minimum components of an investigation process.

6. That the NRC consider conducting National Agency Checks (NACs) on all applicants on a reimbursable basis.

7. That a future screening rule contain:

(a) A requirement for a background investigation of the personal and employment history of the applicant, including any criminal history information;

(b) A requirement for a psychological screening program, which should include as a minimum: a written psychological test, an interview by a psychologist with any applicant indicated by the test to have possible emotional problems, and a system for continued observation by supervisors;

(c) A requirement for an appeal procedure, which could be through an industry management system or to a central NRC office; and

(d) A requirement for protecting information and personal privacy by prescribing specific privacy requirements for all psychological, personal, or derogatory information in an individual's file.

Proposed Amendments

On June 24, 1980, these recommendations were accepted by the Commission and have provided the basis for this proposed personnel Access Authorization Rule. The Commission has also issued a final opinion in the rulemaking proceeding (12 NRC 528 (1980)), adopting the major recommendations of the Hearing Board with respect to nuclear power reactors, with a specific prohibition, however, against the promulgation of a rule that would infringe upon an individual's right of free speech, association, and privacy protected by the First Amendment to the Constitution. The Commission also stated that the record of the decision for this proposed rule will include the Hearing Board's report as it related to power reactors and the record compiled in the hearing on which the Board relied for its recommendation on nuclear power reactor access authorization.

Consistent with the Hearing Board recommendations and its opinion, the Commission is proposing to amend 10 CFR Parts 50 and 73 to establish new requirements for an access authorization program for those individuals requiring unescorted access to protected areas and vital islands at nuclear power plants and to make minor conforming amendments not previously made. It is anticipated that no occupational exposure will be associated with implementation of this proposed rule. The licensee will be required to submit for Commission approval an Access Authorization Plan describing how the requirements of this rule will be met. These proposed requirements will consist of three major industry-run components: background investigation, psychological assessment and continual behavioral observation programs.

Temporary Workers

The Commission recognizes that temporary workers represent a unique problem in regard to granting and then transferring to other sites their unescorted access authorization. The proposed rule specifies how manufacturers, contractors, or equipment suppliers may obtain unescorted access authorization. Specifically, the licensee may prepare and include a generic plan in the Access Authorization Program Plan which contractors, manufacturers, or suppliers would use to screen and observe their employees. The licensee would still be responsible for granting, denying, or revoking the access authorization to these individuals based on results of the contractors', manufacturers', or suppliers' findings or observations. In addition, the licensee would be responsible for auditing all licensee-accepted contractor, manufacturer, or supplier administered programs to determine compatibility with the requirements of this rule. Alternatively, the licensee may screen and grant unescorted access authorization to employees of manufacturers, contractors, or suppliers directly. Once an employee is granted unescorted access authorization by a licensee, a second or subsequent licensee may then grant unescorted access authorization to this same individual provided that the individual's employment under the Access Authorization Plan has not been interrupted for more than 365 days. This time period is consistent with Department of Defense requirements. The second or subsequent licensee will be required to secure from the original licensee a photograph of the individual along with certification that the individual has been screened and currently holds a valid unescorted access authorization in accordance with the requirements of the proposed rule. Temporary employees, like permanent employees, will be subject to the behavioral observation program. In those cases where an unescorted access authorization is not obtained or granted, the licensee is required to escort the individual as provided in § 73.55.

During cold shutdown or refueling operations, the licensee would not be required to meet the access authorization requirements of the proposed rule for individuals if:

(1) The requirements of § 73.55 remain in force;

(2) Prior to start-up, a thorough visual inspection of the affected protected areas and vital islands is made by licensee personnel who normally work in those areas to identify signs of tampering or sabotage; and

(3) Appropriate safety start-up procedures are followed to assure that all operating and safety systems are functioning normally.

The Commission believes that this procedure will provide adequate protection of the public health and safety and be cost-effective for licensees.

The proposed rule also addresses individuals who have received their unescorted access authorization to protected areas and vital islands prior to the effective date of this rule. These individuals are not required to undergo either a background investigation or psychological assessment, but are subject to the behavioral observation requirements.

Background Investigation

The proposed background investigation requirements establish minimum areas of background investigation which are designed to provide a basis for determining an individual's trustworthiness and reliability. This program would be industry administered. A Regulatory Guide is also being published for public comment which provides guidance on the scope of the background investigation criteria that can be used by the licensee to determine an individual's history of trustworthiness and reliability. This guidance closely parallels the proposed ANSI N18.17 standard, dated December 1980.

For inquiry into an individual's true identity, military history, educational history, and character, the Commission considers that the retrospective period of examination should be sufficient to assure that the investigation is adequate for making the necessary determinations. ANSI N18.17 differentiates between the retrospective background investigative time period required for a protected area authorization and for a vital area authorization. A two-year retrospective background investigation of previous employment, education, credit, and criminal history is recommended for a protected area authorization, while a five-year retrospective investigation of these same types of histories is recommended for a vital area authorization. The Commission is recommending in supporting guidance, for both protected and vital area (vital island) authorization, a five-year retrospective time frame for establishing employment, credit, educational, and criminal histories. This approach is based on the Commission's belief that there would be no significant difference in resource impact to the licensee between the two programs. The Commission has determined, based on informal industry input, that the majority of licensee employees require access to both the protected areas and vital islands of the site. Public comments on this provision are specifically solicited.

The proposed regulation includes information evaluation criteria. These criteria have been developed to serve as a mechanism for the evaluation of collected background history information and are based primarily on an individual's direct actions rather than the individual's ideas, beliefs, reading habits, or social, educational, or political associations. These criteria, however, do not preclude interviews with the individual seeking access authorization that could elicit information concerning intentions, attitudes and beliefs to explain or mitigate derogatory information that may have been developed by the background investigation. Each criterion contains direct safeguards implications which could, if discovered in the individual's background, cause that individual to be considered a potential risk to the public health and safety if authorized unescorted access to a nuclear power reactor's protected areas and vital islands. Under the proposed requirements, licensees will also be responsible for ensuring that individuals granted access to protected areas and vital islands report any information arising later that may have a bearing on their screened status (e.g., a subsequent conviction).

Psychological Assessment

The proposed psychological assessment requirement consists of two basic components: (1) Written personality tests, and (2) a clinical interview by a qualified psychologist or psychiatrist for individuals whose personality test results are either inconclusive or indicate abnormal prsonality traits. This is consistent with the recommendations of the Hearing Board.

Personality tests are frequently used in employment settings in order to provide information regarding an individual's psychological and interpersonal characteristics. Clinical interviews serve as a means of professionally evaluating the results of the personality tests, gathering further information on an individual's behavioral reliability, and observing a limited sample of the individual's behavior. The proposed rule requires that the clinical interview, when required, be done by a qualified and, if applicable, state-licensed psychologist or psychiatrist. The use of a qualified professional will help assure that an individual is not subject to an arbitrary and capricious decision by a supervisor.

Continual Behavioral Observation Program

Because human behavior is dynamic, a continual behavioral observation program is proposed. As recommended by the Hearing Board and an NRC study, "Behavioral Reliability Program for the Nuclear Indusry," NUREG/CR-2076, this program is needed to detect changes in an individual which may occur and be manifested as behavioral changes in job performance, competence, or judgment capabilities. The Commission believes the existence of a continual behavioral observation program would also help deter screened individuals frm engaging in acts of sabotage. The proposed continual behavioral observation program consists of two basic elements. These elements are:

1. The detection by an individual's immediate supervisor of those behavioral patterns which may lead to acts detrimental to the public health and safety in a nuclear power plant operating environment. After detecting such behavior patterns, the individual's immediate supervisor will refer the individual to the individual responsible for administration of the licensee's access authorization program. This person will make an impartial determination whether referral of the individual to competent medical authorities with suspension of the individual's unescorted access authorization is warranted. If a supervisor believes that an individual's actions represent an imminent potential danger to the public health and safety, the supervisor has the authority to immediately suspend the individual's unescorted access authorization on a temporary basis and then refer the individual to the licensee management official responsible for the access authorization program; and

2. The decision by the licensee management on whether to suspend an individual's unescorted access authorization to nuclear power plant protected areas and vital islands. The proposed Regulatory Guide supporting this rulemaking action clearly indicates that this decision may be revised after a consultation between the licensee and a qualified medical person.

The proposed Regulatory Guide recommends and provides guidance for the training of supervisors to detect certain behavioral changes in an individual which could possibly lead to actions detrimental to the public health and safety. This guide also recommends that the licensee establish procedures for making individuals aware of the continual behavioral observation program and the decisioin-making process used for determining an individual's suitability for maintaining unescorted access to protected areas and vital islands.

Review Procedure

The Hearing Board recommended that the rule include an appeal procedure through either an industry management system or a central NRC office. A review of sample labor-management collective bargaining agreements covering workers in nuclear power plants has demonstrated that the grievance procedures contained therein provide an adequate mechanism for review of access authorization denials or revocations. The usual grievance procedure includes notice and an evidentiary hearing before a neutral arbitrator with full exploration of factual issues. The Commission believes such procedures at least meet the minimal requirements of procedural due process and may be used in review of access authorization denials or revocations. As an alternative, however, and for cases where an employee is not covered by a collective bargaining agreement or where the collective bargaining agreement's grievance procedure is inadequate, the licensee shall provide a

review procedure that provides notice and a fair evidentiary hearing. The Office of the Executive Legal Director will participate in examining the review procedures submitted in the licensee's Access Authorization Program Plan. Such review procedures are not intended to preempt any Federal or State procedures for the review of allegations of discrimination in employment based upon race, religion, national origin, sex, or age.

Protection of Information

The Hearing Board recommended that the rule contain requirements for protecting information and personal privacy for all recorded psychological, personal or derogatory information on an individual maintained in a file. The Commission agrees that this protection should be given. The Congress of the United States stated in the Privacy Act of 1974 that the right of privacy is a personal and fundamental right protected by the Constitution of the United States. While the Privacy Act does not apply to personal information kept by private parties, the public policy it expresses leads the Commission to conclude that information of a sensitive nature in personal records, resulting from the application of this rule, should be handled with discretion and disseminated to persons, other than the individual involved, or his representative, only if they have a legitimate "need to know" in administering the access authorization program. Because it is impossible to identify in advance who in a licensee's organization will need access to this personal information, the rule is drafted in general terms, stating the principle to be applied rather than detailing procedures. It is anticipated that licensees will develop procedures to provide an appropriate level of privacy protection for the handling, storage, and destruction of personal information.

The Commission believes that the proposed Access Authorization Rule is consistent with the recommendations of the Hearing Board for establishing an access authorization rule based on ANSI N18.17.

Related Actions Aimed at Assuring Individual Fitness for Duty

In a complementary action, the Commission, on August 5, 1982, published for public comment additional measures aimed at assuring individual fitness for duty at nuclear power plants (47 FR 33980). The fitness for duty program would employ similar techniques (e.g., behavioral observation), and is being made the subject of a separate rulemaking action.

Conforming Amendments

The Commission has included in this rulemaking action revisions to 10 CFR 50.34(d). The amended language removes the terminology "industrial sabotage" and substitutes the term "radiological sabotage." This change is necessary because "industrial sabotage" is not defined in 10 CFR Part 73.

The Commission has also included in this rulemaking action revisions to 10 CFR 50.54(p). The amended language allows licensees to propose changes, on a non-fee basis, to guard training and qualification plans that do not decrease the effectiveness of these plans.

Commission Statement on Proposed Rule

An extensive record has been developed on the psychological assessment and behavioral observation elements of this proposed rule. In 1977, the Commission established a Hearing Board to obtain information from the public on these and other aspects of access authorization. In 1979, that Board recommended, among other things requiring a psychological screening program and a system for continued observation of employees. The Commission, on June 24, 1980, accepted the recommendations of that Board. This proposed rule is the result of that Commission decision. Finally, in a General Accounting Office (GAO) Report entitled "Additional Improvements Needed in Physical Security at Nuclear Powerplants" (GAO/RCED–83–141, July 13, 1983); the GAO stated: "There is strong support among licensees for personal screening programs that include background investigations, psychological testing, and behavioral observation to assess the reliability and trustworthiness of their employees." The GAO report went on to state: "The proposed access authorization rule appears to be adequate for upgrading the trustworthiness of plant employees." (It is clear in this GAO report that the proposed rule being commented upon included requirements for background investigations and continual behavioral observations; it is not clear whether GAO was commenting on requiring psychological testing.

The Commission is not persuaded at this time that the psychological assessment and behavioral observation elements are appropriate requirements for this agency to adopt. However, given the extensive record leading to this proposal, it believes that it is appropriate to expand further the record and to obtain critical public comments on these elements. Comments from individuals working in the nuclear industry on the need for, and appropriateness of, these aspects of the proposed rule would be particularly useful.

Commissioner Roberts' Separate View

I do not approve the psychological assessment and behavioral observation elements of the proposed rule.

Commissioner Gilinsky's Separate View

I am worried that this rule will too easily lend itself to abuse. I have attached the suggested staff guidelines for shift supervisors to illustrate my point. I am concerned that this proposed rule will contribute to the demoralization of nuclear plant staffs at a time when there is a great need to retain experienced personnel.

Draft Regulatory Guide—Standard Format and Contents Guide for Access Authorization Plans for Nuclear Power Plants

Appendix C—Supervisor's Guide To Observing Behavioral Changes

This guide may be used by the supervisor as a resource. Listed are behavioral changes that can be observed in an individual employee and are categorized into three areas: work performance, social interactions, and personal health:

Work Performance

Employee's on-the-job behavior and work habits that directly impact on efficiency and effectiveness of task accomplishment.

1. Has the individual's work *quality* or *quantity* changed?
—Greatly changed speed of working
—Changed level of work involvement

2. Has the employee made more *mistakes* or *bad judgments*?
—Has numerous accidents
—Laughs off errors or reprimands
—Denies mistakes
—Unnecessarily condemns self for mistakes

3. Has the employee's *efficiency* lessened?
—Has trouble arriving at decisions
—Often fails to meet deadlines
—Needs repeated directions for easy tasks

4. Does the individual have more difficulty *concentrating*?
—Forgets important or obvious things
—Acts without thinking
—Daydreams too much
—Doodles excessively
—Repeats same action over and over

5. How much is the worker *absent from the job?*
—Is late or absent especially Monday or Friday
—Often takes off half days
—Leaves work without notice
—Falsifies attendance records
—Takes a lot of sick leave
—Gives improbable excuses for absences

6. Is the employee *absent "on the job"*?
—Wanders around the plant a lot
—Takes excessively long lunches and breaks
—Avoids a part of the plant because of fear
—Gets sick while at work

7. Does the employee adhere to *company policy*?
—Steals or damages property
—Disregards rules
—Bends the rules
8. Have you noticed the individual becoming *overcautious*?
—Overreacts to normal conditions
—Freezes or disappears in an emergency
—Is overly concerned about details/accuracy
—Doublechecks work too much
9. Has the employee become *overzealous*?
—Never takes breaks
—Comes to work early
—Hangs around after shift
—Volunteers for excessive amounts of overtime
—Suddenly exceeds work expectations
10. Does the employee engage in a lot of *risk-taking*?
—Drives recklessly
—Operates equipment carelessly on or off the job
—Shows poor judgment in dangerous physical activities
—Gambles a lot
11. Has the individual's *cooperation* with *co-workers* changed?
—Refuses to share equipment or information
—Refuses to take directions
—Refuses to accept help from others

Social Interactions

Type and quality of employee's relationship with work associates that may impact on team performance.
1. Does the employee appear *less sociable* then before?
—Isolated/withdrawn
—Shallow friendships
—Smiles and talks to self
—Refuses social contacts
—Holds grudges/sulks
—Poor eye contact
—Lacks a sense of humor
—Overly suspicious of others
2. Has the individual become *too sociable?*
—Talks too much with other employees
—Play pranks/jokes
—Monopolizes conversations
—Inappropriate sexual behavior
—Flashes money
3. Are there changes in the employee's choice of *friends?*
—Especially for breaks/lunch or transportation
—Only these younger or easily dominated
—Separate set of friends just for drinking or gambling
4. Are there changes in the way *other workers* react to him/her?
—Ignore or avoid
—Get angry with
—Become condescending
—Complain about
—Mistrust
—Play pranks on
—Joke about
5. Does the employee show more *anger?*
—Impatient
—Overreaction to real or imagined criticism
—Irritable
—Argumentative
—Physicial fights
—Temper outbursts
6. Does the individual *manipulate* others?
—Builds up brownie points
—Brags/exaggerates
—Acts naive or innocent
—Lies
—Shows off
—Borrows money
7. Have you noticed any changes in the employee's *speech behavior?*
—Talks slower/faster
—Talks more/less
—Stammers
8. Has the employee's *speech content* changed?
—Jumps from topic to topic
—Talks about hopeless future
—Preoccupied with suicide, disasters, destruction
—Preoccupied with one topic
—Never chats about family/interests
9. Does the employee have more *complaints* about:
—Physical ailments
—Back pain/muscle aches
—Co-workers or superiors
—Being ignored/left out
—Has stopped complaining
—Family/money problems
—Lack of privileges
—Filling out required forms

Personal Health

Employee's physicial and emotional states that affect work behavior.
1. Does the individual show any signs of *"nerves"* or *emotional upset?*
—Headaches
—Startles easily
—Cries easily
—Shaky voice
2. Does the individual use *alcohol* or *drugs differently*
—Drinks too much
—Alcohol on breath
—Preoccupied with drinking or drugs
—Gulps drinks, especially the first few
—Encourages others to use
—Frequently "on the wagon"
3. Has the individual had unusual *illness?*
—Claims large amounts of dental/medical, emotional benefits
—Slow recovery from illness
—Preoccupied with death or suddenly religious
—Ignores own illness
4. Has the individual's *energy level changed?*
—Yawning
—Fatigue
—Restlessness
—Fidgeting
5. Are you aware of any changes in *daily living routine?* in *work routine?*
—Sleep difficulties
—Change in after-work hobbies, activities
—Change in amount-pattern of eating
—Rigidly follows same pattern without reason
6. Have you noticed any changes in the individual *general appearance?*
—Appears better/more poorly groomed
—Walks differently (slower, stumbles)
—Change in posture
7. Have you noticed any *facial* changes?
—Blushing or paleness
—Red eyes
—Dry mouth (frequently swallowing/lip wetting)
—Dilated pupils
—Puffy face
—Difficulty hearing
8. Have you noticed any changes in the individual's *body* or *limbs?*
—Shaky hands
—Nail Biting
—Weight loss/gain
—Cold, sweaty hands
—Twitching
—Sweating, especially nonseasonal
9. Has the employee had any *gastrointestinal* changes?
—Nausea/vomiting
—Stomach aches/gas
—Frequent trips to the restoom
—Excessive use of antacids, coffee/tea or other liquids, aspirin, cigarettes
10. Does the employee have any *cardiovascular* difficulties?
—Dizziness/fainting
—Breathing irregularities
11. Have you noticed any changes in the employee's *thinking pattern?*
—Sees things that aren't there (hallucinations)
—False beliefs (delusions)
—Bizarre or unusual ideas

Questions for Specific Public Comment

The Commission is particularly interested in receiving public response to the following questions concerning the proposed requirements:

1. To what extent are the proposals contained in the proposed access authorization rules already in place in the commercial power reactor industry? To what extent are psychological assessment and behavioral reliability programs already used by the nuclear industry as part of employee screening programs?

2. What purposes are being served by the use of psychological assessment procedures in the nuclear industry? Is psychological assessment used to address fitness for duty concerns, radiological sabotage concerns, or both?

3. What are the particular concerns about infringements on civil liberties associated with each of the components of the proposed access authorization rule? The Commission is also interested in specific comments regarding the contribution of the specific provisions of the proposed rule in decreasing the risk of sabotage and whether they have been adequately demonstrated to outweigh the infringements on individual privacy associated with the initiatives.

4. What evidence does or does not support the use of objective diagnostic tests such as the MMPI as screening tools when specifically used only to initiate overall clinical assessments? What evidence does or does not support the use of clinical assessment by a licensed psychologist or psychiatrist as a consideration in determining whether or not an individual should be granted

unescorted access to commercial nuclear power reactors?

5. What specific characteristics are identified by a clinical psychological assessment that relate directly or indirectly to reducing the risk of radiological sabotage? What percentage of false positives and false negatives (Type I and Type II errors) can be expected from using the NRC proposed psychological assessment procedure? Are more effective procedures available and practical?

6. Can the use of psychological assessment in the commercial nuclear industry be justified solely on the basis of reducing the risk of radiological sabotage? Is there any evidence which would help quantify the extent, if any, of risk reduction supplied by psychological assessment, background investigations, and behavioral reliability programs.

7. Can the use of psychological assessment in the commercial nuclear industry be justified on the basis of addressing both fitness for duty and radiological sabotage concerns?

8. To what extent is the use of psychological assessment related to a behavioral reliability program? Would the proposed behavioral reliability program be effective without preemployment psychological assessment? What specific risks would remain if both psychological assessment and a behavioral reliability program were not part of a screening program, i.e., if only background investigations were adopted?

9. What kinds of individuals have been "screened out" of nuclear industry by the use of psychological assessment, by the use of background investigations, or by the use of behavioral reliability programs?

10. What examples, if any, exist of management abuses of screening procedures, including psychological assessment, background investigations and behavioral reliability programs?

11. How do employees and employee organizations feel about past and present use of screening programs? How do they feel about the proposed access authorization rules?

Environmental Impact: Categorical Exclusion

The NRC has determined that the proposed rule is the type of action descibed in categorical exclusion 10 CFR 51.22(c)(3). Therefore neither an environmental impact statement nor an environment assessment has been prepared for this proposed rule.

Paperwork Reduction Statement

The proposed rule has been submitted to the Office of Management and Budget for clearance of the information collection requirements that may be appropriate under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The SF–83, "Request for Clearance," Supporting Statement, and related documentation submitted to OMB will be placed in the NRC Public Document Room at 1717 H Street NW., Washington, DC 20555. The material will be available for inspection or copying.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities. These proposed regulations affect electric utilities that are dominant in their respective service areas and that own and operate nuclear power plants. These utilities do not fall within the defintion of small businesses set forth in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 10 CFR Part 121. These proposed regulations will affect some nuclear power industry contractors and vendors all of which are large concerns which service the industry.

Regulatory Analysis

The net increase initial cost to the NRC due to estimated time to be spent in reviewing proposed Access Authorization Plans is $510K with an estimated annual cost impact of $211K.

The net increase cost per applicant and licensee in implementing these requirements is estimated to be $155K initially and $348K per year thereafter. It is estimated that it will initially cost new plants, which receive their operating license after the effective date of this rule, approximately $770K to screen their employees with the same annual maintenance cost as existing plants.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

10 CFR Part 73

Hazardous materials-transportation, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that adoption of the following amendments to 10 CFR Parts 50 and 73 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 is revised to read as follows:

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, 1244, 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. 2951 (42 U.S.C. 5851). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 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. 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, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.34, paragraph (d) is revised and paragraph (h) is added, to read as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(d) *Safeguards contingency plan.* Each application for a license to operate a production or utilization facility that shall be subject to §§ 73.50, 73.55, or 73.60 of this chapter shall include a licensee safeguards contingency plan in accordance with the criteria set forth in Appendix C to 10 CFR Part 73. The safeguards contingency plan shall include plans for dealing with threats, thefts, and radiological sabotage, as defined in Part 73 of this chapter, relating to the special nuclear material and nuclear facilities licensed under this chapter and in the applicant's possession and control. Each application for such a license shall include the first four categories of information contained in the applicant's safeguards contingency plan. [The first four categories of information, as set forth in Appendix C to 10 CFR Part 73, are Background, Generic Planning Base,

Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.) [7]

* * * * *

(h) *Access Authorization Plan.* Each application for a license to operate a nuclear power reactor pursuant to § 50.22 of this chapter shall include an Access Authorization Plan. The Access Authorization Plan is to provide details for meeting the requirements of § 73.56 of this chapter. The Access Authorization Plan shall describe in detail the program used for: performing a background investigation and psychological assessment on an individual, procedures established for the continual behavioral observation program, grievance review procedures, protection of information, procedures to be used with regard to temporary and transient workers, and the other requirements of § 73.56 of this chapter.

§ 50.54 [Amended]

3. In § 50.54, paragraph (p) is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(p)(1) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may make no change which would decrease the effectiveness of a security plan, guard training and qualification plan or access authorization plan, prepared pursuant to § 50.34(c), 50.34(f) or Part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan prepared pursuant to § 50.54(d) or Part 73, as applicable, without prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 50.90.

(2) The licensee may make changes to plans referenced in paragraph (p)(1) of this section without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan.

(3) The licensee shall maintain records of changes to the plans made without prior Commission approval for a period of two years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards (for enrichment and reprocessing facilities) or the Director of Nuclear Reactor Regulation (for nuclear reactors), U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within two months after the change is made. Prior to the safeguards contingency plan being put into effect, the licensee shall have:

(i) All safeguards capabilities specified in the safeguards contingency plan available and functional;

(ii) Detailed procedures developed according to Appendix C to Part 73 available at the licensee's site; and

(iii) All appropriate personnel trained to respond to safeguards incidents as outlined in the plan and specified in the detailed Procedures.

(4) The licensee shall provide for the development, revision, implementation, and maintenance of his safeguards contingency plan. To this end, the licensee shall provide for the review at least every 12 months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review shall include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards systems along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of two years.

* * * * *

PART 73—PHYSICIAL PROTECTION OF PLANTS AND MATERIALS

4. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68, Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, 88 Stat. 1242, as amended, sec. 204, 88 Stat. 1245 (42 U.S.C. 5841, 5844).

Section 73.37(f) is also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 73.21, 73.37(g), 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 72.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.2.(c)(1) 73.24(b)(i), 73.26(b)(3), (h)(6), and (k)(4), 73.27(a) and (b), 73.37(f), 73.40(b) and (d) 73.46(g)(6) and (h)(2), 73.50(g)(2), (3)(iii)(B) and (h), 73.55(h)(2), and (4)(iii)(B), 73.70, 73.71, 73.72 are issued under sec. 106o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§§ 73.2, 73.4, 73.40, 73.50, 73.55, 73.80 and Appendices A, B, and C [Amended]

5. Remove the authority citation following §§ 73.2, 73.4, 73.40, 73.50, 73.55, 73.80, Appendices, A, B, and C.

6. In § 73.55, the introductory text of paragraph (d) is revised and paragraph (i) is added to read as follows:

§ 73.55 Requirements for physicial protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(d) *Access Requirements.* In addition to the requirements of § 73.56 of this part:

* * * * *

(i) During cold shutdown or refueling operations, as specified in the facility's technical specifications as required in 10 CFR 50.36, the licensee has the option under § 73.56(e)(3) of this Part to grant temporary unescorted access authorizations to unscreened individuals provided that:

(1) Applicable requirements of this section are followed;

(2) Prior to start-up, a thorough visual inspection of all affected protected areas and vital islands is conducted by licensee personnel who normally work in these areas to identify any signs of tampering or sabotage; and

(3) Appropriate safety start-up procedures are followed to assure that all operating and safety systems are functioning normally.

7. A new § 73.56 is added to read as follows:

§ 73.56 Personnel access authorization requirements for nuclear power plants.

(a) *General.* (1) Each licensee who is authorized on [date that a final rule is published in the **Federal Register** to operate a nuclear power reactor under Part 50 § 50.22 of this chapter shall comply with the requirements of this section. The licensee shall submit by [120 days after this effective rule is published in the **Federal Register** as Access Authorization Plan describing how the licensee will comply with all of the requirements of this section. By [360 days after this effective rule is published in the **Federal Register** or 120 days after the Access Authorization Plan has been approved by the Commission, whichever

[7] A physical security plan that contains all the information required in both § 73.55 and Appendix C to Part 73 satisfies the requirement for a contingency plan.

is later, the licensee shall comply with the requirements of this section and with its plan.

(2) Each applicant for a license to operate a nuclear power reactor pursuant to § 50.22 of this chapter, whose application was submitted prior to [date that a final rule is published in the **Federal Register**], shall submit by [120 days after a final rule is published in the **Federal Register**] an Access Authorization Plan describing how the applicant plans to comply with the requirements of this section. By [360 days after a final rule is published in the **Federal Register**, or on the date of receipt of the operating license, whichever is later, the licensee shall comply with the requirements of this section and with its Commission approved plan.

(3) Each applicant for a licensee to operate a nuclear power reactor pursuant to §§ 50.21(b) and 5022 of this chapter, whose application is submitted after [date a final rule is published in the **Federal Register**], shall include in its application an Access Authorization Plan describing how the applicant plans to meet the requirements of this section. The applicant shall comply with the requirements of this section and with its Commission approved plan upon receipt of an operating license.

(4) Licensees may include in their Access Authorization Plan a generic plan to be used by all licensee contractors, manufacturers, or suppliers for screening and observing their employees. The licensee shall be responsible for granting, denying, or revoking unescorted access authorization to these individuals based on results of the contractors', manufacturers', or suppliers' findings or observations.

(b) *General performance objective and requirements.* (1) The licensee shall establish and maintain an access authorization program which has as it objective preventing unescorted access to protected areas and vital islands to those individuals whose history, psychological profile or changes in behavioral patterns indicate a potential for committing acts that are inimical to the public health and safety or prevent a danger to life or property. The unescorted access authorization program shall consist of a background investigation program, a psychological assessment program, and a continual behavioral observation program. The background investigation program shall be designed to identify past actions that would be predictive of an individual's future reliability within a protected area or vital island of a nuclear power reactor. The psychological assessment program shall consist of written personality tests and, if needed, clinical interviews designed to provide personality profiles and to assess psychological abnormalities. The continual behavioral observation program shall be designed to detect certain individual behavior or behavioral changes within the context of the job environment which, if left undetected, could lead to acts inimical to the public health and safety or could present a danger to life or property. This behavioral observation program shall include a supervisor training program and, if needed, a new psychological assessment. Individuals who have received an unescorted access authorization to protected areas and vital islands prior to the effective date of these amendments are exempt from having to meet the requirements of paragraph (c) of this section for a background investigation and paragraph (d) of this section for psychological assessment.

(2) This section does not authorize any activity by the licensee or any other person that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor any activity that would discriminate among individuals on the basis of race, religion, national origin, sex, or age. Any denial, revocation or suspension of access authorization resulting from information derived from a background investigation and for which this section is cited as authority shall be based solely upon application of the criteria enumerated below.

(3) In making a determination under this section for the denial, revocation or suspension of access authorization based upon data derived from a background investigation, the licensees shall consider whether the individual:

(i) Has committed or attempted to commit, or aided, or abetted another who committed or attempted to commit, any act of sabotage or other unlawful destruction of property;

(ii) Has deliberately omitted material information or falsified his employment or site access application;

(iii) Has or has had any illness of a nature which, in the opinion of a qualified and, if applicable, state-licensed psychologist, or psychiatrist, or medical doctor, may cause significant defect in the judgment or reliability of the individual;

(iv) Has been convicted of any felony or series of lesser offenses indicating habitual criminal tendencies;

(v) Is a habitual user of a controlled substance (as defined and listed in the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. 91–513, 21 U.S.C. 801 et seq.) without a prescription or has been without adequate evidence of rehabilitation;

(vi) Is a user of alcohol habitually and to excess, or has been so in the past without adequate evidence of rehabilitation; or

(vii) Has engaged in any other conduct, or is subject to any other circumstance, which furnishes reason to believe that the individual may act in a manner contrary to the protection of health and minimization of danger to life and property.

(4) No person may cite this section as authority for the denial, revocation, or suspension of an access authorization based upon information derived from a background investigation when the basis for the denial, revocation, or suspension is other than application of a criterion listed in paragraph (b)(3) of this section.

(c) *Background investigation.* The licensee shall conduct, or make arrangements for, background investigations that provide assurance that individuals seeking unescorted access to protected areas and vital islands at nuclear power reactors are reliable, trustworthy, and would act in a manner that would protect health and minimize danger to life and property. As a minimum, this background investigation must verify an individual's true identity, employment history, educational history, credit history, criminal history, military service and character and reputation. The licensee shall require that individuals granted unescorted access under these provisions report promptly to the licensee any subsequent occurrence or circumstance (conviction, hospitalization, etc.) that may have a bearing on such individual's continued access authorization.

(d) *Psychological Assessment.* The licensee shall establish and maintain a psychological assessment program to be administered to all individuals prior to granting them unescorted access to protected areas and vital islands. The requiremetns of this paragraph supplant the requirements of Appendix B paragraph I.B.2.b. of this part for nuclear power reactor security personnel. This program, as a minimum, shall consist of:

(1) Written personality tests which have been designed to furnish an objective evaluation of some of the major personality traits which influence individual and interpersonal behavior. Results of the personality tests shall be evaluated by a qualified and, if applicable, state-licensed psychologist or psychiatrist. The tests chosen shall

have predetermined evaluation scales which are statistically proven to have a high degree of reliability, shall have been proven to be valid, shall meet the criteria of paragraph (d)(2) of this section, and shall comply with the employee selection procedure guidelines as described in "Uniform Guidelines on Employee Selection Procedures (1978)," 43 FR 38295 (August 25, 1978), 29 CFR Part 1607.

(2) Clinical interviews for individuals whose personality tests results are inconclusive or indicate abnormal personality traits. These interviews shall be administered and conducted by a qualified and, if applicable, state-licensed psychologist or psychiatrist. The tests and interview shall be designed to evaluate (i) an individual's current behavioral reliability, looking for traits which would indicate that the individual possesses a strong potential for committing acts detrimental to the public health and safety or property, and (ii) behavioral patterns which, if combined with the expected work environment, could develop into a high potential for committing acts detrimental to the public health, safety, or property. Based on the results of the tests and, if needed, clinical interview, the psychiatrist or psychologist shall provide, in writing to appropriate senior licensee management, a recommendation as to the individual's behavioral suitability for unescorted access to protected areas and vital islands at nuclear power plants.

(e) *Continual Behavioral Observation Program.* (1) The licensee shall establish and maintain a continual behavioral observation program for individuals which is designed to have supervisors detect changes in an individual's on-the-job performance, judgment, level, or behavior and, after detecting a pattern of abnormal behavior, refer the individual to senior licensee management to make an initial decision on whether to maintain or temporarily suspend the individual's unescorted access authorization to protected areas and vital islands. In the case where the individual's behavioral actions represent an imminent danger to the public health and safety, the individual's supervisor shall immediately suspend the individual's unescorted access authorization on a temporary basis and then refer the individual to senior licensee management.

(2) The requirements of paragraphs (d) and (e) of this section supplant the requirements of Appendix B paragraph I.B.2.c. of this part for nuclear power reactor security personnel.

(f) *Non-licensee Employees.* (1) The licensee may accept an unescorted access authorization granted an employee of a manufacturer, contractor, or equipment supplier by another licensee, or a previous employee of another licensee, if the individual's employment in licensed nuclear power reactors has not been interrupted for a continuous period of more than 365 days and if the original granting licensee sends to the gaining licensee a photograph of the individual and a written verification of the individual's unescorted access authorization along with a statement which indicates its current validity. For individuals whose employment in licensed nuclear power reactors has been interrupted for a continuous period of more than 365 days, the individual's activities must be investigated according to the applicable requirements of paragraph (c) of this section and a new psychological assessment made according to the requirements of paragraph (d) of this section.

(2) Consistent with the requirements of § 50.70(b)(3) of this chapter, the licensee shall grant unescorted access authorization to protected areas and vital islands without further investigation by the licensee with regard to the requirements of this section to all employees of the Commission who have been certified by the NRC to have met the intent of the requirements of this section.

(3) During cold shutdown or refueling operations, as specified in the facility's technical specifications, as required in 10 CFR 50.36, the licensee has the option to grant a temporary unescorted access authorization to an unscreened individual if:

(i) The requirements of § 73.55 of this chapter are followed; and

(ii) The affected individual is subject to the continual behavioral observation requirements of paragraph (e) of this section.

(g) *Review Procedures.* The licensee's plan submitted pursuant to § 73.56(a) this of chapter must include a procedure for the review of a denial or revocation under this section of an access authorization of an employee of the licensee, contractor, or supplier that has an adverse effect on the individual's employment. The procedure must provide notice and an opportunity for a fair evidentiary hearing and be consonant with fundamental principles of due process. The grievance review procedure contained in the collective bargaining agreement covering the bargaining unit of which the employee is a member will normally meet this requirement, and may be used for this purpose whether or not the denial or revocation of access authorization is a grievable action under the contract.

(h) *Protection of Information.* (1) Each licensee, contractor, or supplier who collects personal information on an employee for the purpose of complying with this section shall establish and maintain a system of files and procedures for the protection of the personal information.

(2) The licensee, contractor, or supplier shall not disclose the personal information collected and maintained to persons other than the subject individual, or his representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying access to protected areas and vital islands.

(3) The licensee shall have access to and periodically audit contractor records to ensure that the requirements of § 73.56 are being met in accordance with the licensee's approved physical protection plan.

(4) The licensee shall make available files or documents relied upon by the licensee, including records of audits done on the contractor's screening program, for examination by an NRC inspector to allow the NRC to determine the licensee's compliance in implementing its approved plan.

(5) The licensee shall retain the access authorization file of an individual for three years after termination of the unescorted access authorization for protected areas and vital islands.

8. Appendix B of Part 73 is amended by revising paragraph I.B.2.c. to read as follows:

APPENDIX B—GENERAL CRITERIA FOR SECURITY PERSONNEL

* * * * *

I. Employment suitability and qualification. * * *

B. Physical and mental qualification. * * *

2. Mental qualification. * * *

c. The licensee shall arrange for continued observation of security personnel and for appropriate corrective measures by responsible supervisors for indications of emotional instability of individuals in the course of performing assigned security job duties. Identification of emotional instability by responsible supervisors must be subject to verification by a licensed, trained person. This paragraph does not apply to security personnel at nuclear power reactors licensed under 10 CFR Part 50. These licensees shall consult § 73.56(e).

* * * * *

Dated at Washington, DC this 27th day of July, 1984.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.
[FR Doc. 84-20348 Filed 7-31-84; 8:45 am]
BILLING CODE 7590-01-M

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10 CFR Part 73

Miscellaneous Amendments Concerning Physical Protection of Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its nuclear power plant safeguards regulations to clarify and refine requirements for the designation and protection of vital locations containing safety-related equipment. The revised requirements are being considered in light of a Commission review of the impact of safeguards requirements on plant safety objectives. The proposed requirements are designed to provide a more safety-conscious safeguards system while maintaining current levels of protection.

DATES: The comment period expires Friday, December 7, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date..

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street, NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Copies of comments received are available for examining and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC. Single copies of draft guidance material may be obtained from the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control.

FOR FURTHER INFORMATION CONTACT: Tom R. Allen, Chief, Regulatory Activities Section, or Henry S. Blumenthal III, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4010.

SUPPLEMENTARY INFORMATION: Commission experience during the implementation of § 73.55, "Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage," has indicated a need to clarify the policy for the designation and protection of vital areas containing safety-related equipment. Particular concern has been focused on ensuring that security measures do not impede plant safety. Inspections have also indicated that certain physical security equipment is not now protected as vital, despite the fact that this equipment safeguards vital areas containing essential safety-related equipment. In addition, experience with present requirements for key and lock controls indicates that § 73.55 can be modified to provide more flexibility in this area while maintaining adequate plant protection. The Commission believes that the clarification and refinement of requirements, as reflected in these amendments, is appropriate, because they afford the increased assurance of plant safety. A discussion of each of the amendments follows.

Clarification of Vital Area Designation Policy (Vital Islands)

Section 73.55 now requires each licensee to protect all vital areas (areas in which radiological sabotage can be accomplished). Security plans which designate these vital areas were originally accepted by the Commission on an interim basis pending site specific reviews to verify these designations. Many site-specific reviews have been completed. The results indicate that present § 73.55 requirements may be unnecessarily strict in mandating protection of all vital areas.

Many vital areas are configured so that a saboteur must enter two or more areas in order to carry out successful radiological sabotage. In such cases, it is not necessary to protect all of the areas in order to thwart sabotage. The Commission is therefore considering adoption of a clarified vital area designation policy which would require protection only to the extent necessary to interrupt sabotage. Licensees would be given considerable latitude to take advantage of existing barriers and access control points. Certain items, however, would be deemed vital in all cases. These include onsite diesel generators and batteries (excluding electrical distribution systems), reactor containment, control rooms, central alarm station, and onsite water supplies (excluding piping) required for safe shut-down. The Commission specifically invites public comment on the assumptions that should be used to support the vital island designation approach.

Vital Island Protection and Access Control

On March 12, 1980, the NRC published proposed amendments to 10 CFR Part 73 pertaining to nuclear powerplant vital access control (45 FR 15937). Public comment was invited and received. The Commission has significantly revised these requirements to assure adequate access for safety purposes while accomplishing the safeguards objectives. Amendments to 10 CFR 73.55(d)(7) are now proposed that address both nonemergency and emergency access controls to vital islands.

Revised nonemergency controls include (1) the establishment of up-to-date nonemergency access lists, (2) a requirement that access control devices be retrieved from involuntarily terminated individuals prior to or simultaneously with their notification of termination, and (3) a requirement that uncontrolled exterior doors leading to vital islands be locked and alarmed.

Vital island access controls during emergency conditions include (1) a requirement that licensees periodically review physical protection and contigency plans to insure that they do not conflict with safety objectives, and (2) a requirement that licensees develop procedures to facilitate emergency ingress and egress to vital islands (these procedures would include provisions for back-up keys to vital islands and methods of opening locked doors in the event of a computer failure).

Although the amendment to 10 CFR 73.55(d)(7) was subject to a round of public comment, due to the significant rewording now being proposed, the Commission is asking for additional comments.

Authority to Suspend Safeguards Measures During Emergencies

As a result of the Commission's review of potential conflicts between safeguards and safety requirements, consideration is being given to improving licensee's flexibility to respond to site emergencies or "unusual events." The Commission is proposing to revise 10 CFR 73.55(a) to provide authority to licensees to suspend safeguards measures if required to accommodate emergency response.

Protection of Specified Physical Security Equipment

Safeguards inspections have indicated that, in some cases, certain security equipment does not appear to qualify for designation as vital equipment under 10 CFR 73.2(i). The sabotage of this equipment could significantly impact the

security of the plant. For example, although 10 CFR 73.55(e)(1) requires that the central alarm station be designated as vital, there is no specific requirement that the emergency power and other support systems necessary for its operation be designated as vital equipment.

Accordingly, the Commission is considering requiring protection of specified onsite physical security equipment necessary for the proper functioning of the security system. This equipment will include secondary power supplies for intrusion alarms and nonportable communications equipment. This action by the Commission is predicated on the belief that this protection is necessary to achieve the general performance requirements of 10 CFR 73.55(a).

Key and Lock Controls

In a matter associated with access control, the Commission is considering amendment of § 73.55(d)(9) to reduce unnecessary costs associated with key and lock controls. The present requirements call for key, lock, and combination changes when any employee who had access to these devices is terminated.

Experience, however, indicates that adequate protection could be obtained by changing keys, locks, and combinations (1) routinely on an annual basis; (2) whenever a person's access authorization is revoked for reasons of lack of trustworthiness, reliability or inadequate performance; and (3) when compromise of locks is suspected.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Statement

The proposed rule has been submitted to the Office of Management and Budget for clearance of the information collection requirements that may be appropriate under the Paperwork Reduction Act (Pub. L. 96–511). The SF–83, "Request for Clearance," Supporting Statement, and related documentation submitted to OMB will be placed in the NRC Public Document Room at 1717 H Street, NW., Washington, D.C. 20555. The material will be available for inspection or copying.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities. These proposed regulations affect electric utilities that are dominate in their respective service areas and that own and operate nuclear power plants. These utilities do not fall within the definition of small businesses set forth in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 10 CFR Part 121. These proposed regulations will affect some nuclear power industry contractors and vendors all of which are large concerns which service the industry.

Regulatory Analysis

The net increase initial cost to the NRC due to estimated time to be spent in reviewing proposed changes to physical protection plans and conducting field inspections to assure compliance is $299.5K per year initially and $37.4K per year thereafter.

The net increase cost per applicant and licensee in implementing these requirements is estimated to be $1.5M initially and would result in $15K savings per year thereafter.

List of Subjects in 10 CFR Part 73

Hazardous materials-transportation, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that adoption of the following amendments to 10 CFR Part 73 is contemplated.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68, Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, 88 Stat. 1242, as amended, sec. 204, 88 Stat. 1245 (42 U.S.C. 5841, 5844).

Section 73.37(f) is also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S C. 2273); §§ 73.21, 73,37(g), 73.55 are issued under sec. 161b, 68 STAT. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26(b)(3), (h)(6), and (k)(4), 73.27(a) and (b), 73.37(f), 73.40(b) and (d), 73.46(g)(6) and (h)(2), 73.50(g)(2), (3)(iii)(B) and (h), 73.55(h)(2), and (4)(iii)(B), 73.70, 73.71, 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In §73.2, paragraph (nn) is added to read as follows:

§ 73.2 Definitions.

* * * * *

(nn) "vital islands" are one or more vital areas(s) protected as a single entity.

3. In § 73.55, the introductory paragraph, paragraph (a), paragraphs (c)(1) and (c)(2), paragraphs (d)(7) and (d)(9), paragraphs (e)(1) and (e)(3), and the introductory paragraph of (h)(4) and (h)(4)(iii)(A) are revised to read as follows:

§ 73.55 Requirements for physicial protection of licensed activities in nuclear power reactors against radiological sabotage.

By (120 days from the effective date of this amendment or 120 days after receipt of a Commission provided site specific vital area review, whichever is later) each licensee shall submit proposed amendments to his security plan which define how the amendment vital island designation and protection requirements of paragraphs (a), (c)(1), (c)(2), (d)(2), (d)(7), (d)(9), (e)(1) and (3) and (h)(4) will be met. Each submittal shall include a proposed implementation schedule for Commission approval. The amended safeguards requirements of these paragraphs must be implemented by the licensee within 180 days after Commission approval of the proposed security plan in accordance with the approval schedule.

(a) General performance objective and requirements. The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. The physical protection system shall be designed to protect against the design basis threat of radiological sabotage as stated in § 73.1(a). To achieve this general performance, objective, the onsite physical protection system and security organization shall include, but not necessarily be limited to, the capabilities to meet the specific requirements contained in paragraphs (b) through (h) of this section. The

Commission may authorize an applicant or licensee to provide measures for protection against radiological sabotage other than those required by this section if the applicant or licensee demonstrates that the measures have the same high assurance objective as specified in this paragraph and that the overall level of system performance provides protection against radiological sabotage equivalent to that which would be provided by paragraphs (b) through (h) of this section and meets the general performance requirements of this section. Specifically, in the special cases of licensed operating reactors with adjacent reactor power plants under construction, the licensee shall provide and maintain a level of physical protection of the operating reactor against radiological sabotage equivalent to the requirements of this section. The site supervisor or other individual designated in the licensee's physical protection plan shall have the authority to suspend any safeguards measure pursuant to this section if the suspension is necessary to facilitate response to emergency conditions, provided that all safeguards measures are restored as soon as practicable following such an emergency.

* * * * *

(c) *Physical barriers.* (1) the licensee shall locate vital equipment within a vital area, which in turn shall be located within a protected area. One or more vital areas may constitute a vital island. Vital islands shall be configured to ensure that an individual must gain access to a vital island to accomplish sabotage resulting in a significant radiological release or reactor core damage or both. Access to vital islands must require passage through at least two physical barriers of sufficient strength to meet the performance requirements of paragraph (a) of this section. More than one vital island may be located within a single protected area. The licensee shall protect, as independent vital islands, onsite alternating and direct current emergency power sources (excluding electrical distribution systems) required to permit functioning of structures, systems and components important to safety, primary reactor containment, the reactor control room, central alarm station, and onsite water supplies (excluding piping) required for achieving plant hot shutdown or hot standby.

(2) The physical barriers at the perimeter of the protected area must be separated from any other barrier designated as a physical barrier for a vital island within the protected area.

* * * * *

(d) Access requirements. * * *

(7) The licensee shall:

(i) Establish an access authorization system to limit unescorted access to vital islands during nonemergency conditions to individuals who require access in order to perform their duties. To achieve this the licensee must:

(A) Establish current authorization access lists for each vital island. The access lists must be updated and reapproved by the cognizant licensee manager or supervisor at least every 31 days. The licensee shall include on the access list only individuals whose specific duties require access to vital islands during nonemergency conditions.

(B) Positively control, in accordance with the access list establish pursuant to paragraph (d)(7)(i) of this section, all points of personnel and vehicle access to vital islands.

(C) Revoke, in the case of an individual's involuntary termination for cause, the individual's access authorization and retrieve his/her identification badge and other entry devices, as applicable, prior to or simultaneously with notifying this individual or his/her termination.

(D) Lock and protect by an active intrusion alarm system unoccupied vital islands and all exterior doors leading to vital islands which are not otherwise controlled.

(ii) Design the access authorization system to accommodate the potential need for rapid ingress or egress of individuals during emergency conditions or situations that could lead to emergency conditions. To help assure this, the licensee must:

(A) Ensure prompt access to vital equipment.

(B) Periodically review physical security plans and contingency plans and procedures to evaluate their potential impact on plant and personnel safety.

* * * * *

(9) All keys, locks, combinations, and related equipment used to control access to protected areas and vital islands must be controlled to reduce the probability of compromise. All such keys, locks, and combinations must be changed at least every 12 months. Whenever there is evidence or suspicion that any key, lock, combination, or related equipment may have been compromised, it must be changed. The licensee shall issue keys, locks, combinations, and other access control devices to protected areas and vital islands only to persons who possess access authorization in accordance with § 73.56 of this part. Whenever an individual's access authorization is revoked due to his or her lack of trustworthiness, reliability, or inadequate work performance, keys, locks, combinations, and related equipment to which that person had access must be changed.

(e) *Detection aids.* (1) All alarms requirement pursuant to this part must annunicate in a continuously manned central alarm station located within the protected area and in at least one other continuously manned station not necessarily onsite, so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm. The onsite central alarm station shall be located within a building such that the interior of the central alarm station is not visible from the perimeter of the protected area. This station shall not contain any operational activities that would interfere with the execution of the alarm response function. The walls, doors, floor, and any windows in the walls and in the doors of the central alarm station shall be bullet resisting. On site secondary power supply systems for alarm annunciator equipment and non-portable communications equipment as required in paragraph (f) of this section must be located within vital islands.

* * * * *

(3) The licensee shall alarm all emergency exits in each protected area and each vital island.

* * * * *

(h) Response requirement. * * *

(4) Upon detection of abnormal presence of activity or persons or vehicles within an isolation zone, a protected area, material access area, or a vital island; or upon evidence or indication of intrusion into a protected area, a material access area, or a vital island, the licensee security organization must:

* * * * *

(iii) * * *

(A) Requiring responding guards or other armed response personnel to interpose themselves between vital islands and material access areas and any adversary attempting entry for the purpose of radiological sabotage or theft of special nuclear material and to intercept any person exiting with special nuclear material, and

* * * * *

4. In § 73.70, paragraph (d) is revised to read as follows:

§ 73.70 Records.

* * * * *

(d) A log indicating name, badge number, time of entry, reason for entry,

and time of exit of all individuals granted access to a vital island except those individuals entering or exiting the reactor control room.

* * * * *

Dated at Washington, DC, this 27th day of July 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-20346 Filed 7-31-84; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 73

Searches of Individuals at Power Reactor Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing an amendment to its requirements for entry searches at power reactor facilities. This regulation is needed to clarify requirements for searches of individuals at these facilities. This amendment requires equipment searches of all individuals seeking access to protected areas except on-duty peace officers, and pat-down searches when detection equipment fails, or cause to suspect exists. This proposed amendment will support the Commission's goal of increased assurance that power reactors are adequately protected against sabotage by an insider.

DATES: The comment period expires Friday, December 7, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Copies of comments received are available for examining and copying for a fee at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom R. Allen, Chief, Regulatory Activities Section, or Henry S. Blumenthal III, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4010.

SUPPLEMENTARY INFORMATION: On December 1, 1980, the Commission extended the implementation date for pat-down searches at power reactors until revised search procedures could be written in physical protection plans and approved (45 FR 79410). At the same time, the Commission issued proposed revisions to 10 CFR 73.55(d)(1) to finalize requirements for personnel searches at protected area entry portals of power reactors, (45 FR 79492).

The Commission invited and received public comment on the proposed amendments. Comments were received from 25 utilities, three industry coordination organizations, one equipment manufacturer, one government agency, and two private citizens. The Commission has now revised the rule concerning search requirements in light of the public comments and in response to recommendations made by the Safety/Safeguards Review Committee. This Committee had the overall task of studying power reactor safeguards requirements and practices to determine whether actual or potential conflicts exist with plant safety objectives.

The Commission is now proposing that all persons entering the protected area of nuclear power plants (except on-duty law enforcement officers) be searched using metal detectors and explosive detectors. This proposed amendment differs from the current interim procedures in that visitors would be subject to routine equipment searches rather than physical "pat-down" searches. "Pat-down" searches would be required only when the licensee has cause to suspect that an individual is attempting to introduce contraband (firearms, explosives, or incendiaries), or when the detection equipment is out of service. The exemption for on-duty law enforcement officers has been added as a matter of practicality.

The Commission had considered the use of random searches for screened individuals, but the Safety/Safeguards Review Committee found that most licensees have successfully adjusted to 100% equipment searches, and believe that changing to random searches would be disruptive.

The search requirement amendment is being republished because of its interrelationship with the proposed Access Authorization Rule.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act

The proposed rule has been submitted to the Office of Management and Budget for clearance of the information collection requirements that may be appropriate under the Paperwork Reduction Act (Pub. L. 96-511). The SF-83, "Request for Clearance," Supporting Statement, and related documentation submitted to OMB will be placed in the NRC Public Document Room at 1717 H Street NW., Washington, D.C. 20555. The material will be available for inspection or copying.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities. These proposed regulations affect electric utilities that are dominant in their respective service areas and that own and operate nuclear power plants. These utilities do not fall within the definition of small businesses set forth in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 10 CFR Part 121. These proposed regulations will affect some nuclear power industry contractors and vendors all of which are large concerns which service the industry.

Regulatory Analysis

The net increase initial cost to the NRC due to estimated time to be spent in reviewing proposed changes to physical protection plans is $46.1K initially and $5.8K per year thereafter.

Implementation of these revised requirements as proposed herein would not represent any increase costs to present licensees because required firearms and explosives detection equipment is currently in place at most reactor sites.

List of Subjects in 10 CFR Part 73

Hazardous materials—transportation, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that adoption of the

following amendment to 10 CFR Part 73 is contemplated.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, 88 Stat. 1242, as amended, sec. 204, 88 Stat. 1245 (42 U.S.C. 5841, 5844).

Section 73.37(f) is also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

For the purposes of sec. 223, 68 Stat. 958, as amended 42 U.S.C. 2273); §§ 73.21, 73.37(g), 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26(b)(3), (h)(6), and (k)(4), 73.27(a) and (b), 73.37(f), 73.40(b) and (d), 73.46(g)(6) and (h)(2), 7350(g)(2), (3)(iii)(B) and (h), 73.55(h)(2) and (4)(iii)(B), 73.70, 73.71, 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 73.55 [Amended]

2. In § 73.55, paragraph (d)(1) is revised to read as follows:

* * * * *

(d) *Access Requirements.*—(1) The licensee shall control all points of personnel and vehicle access into a protected area. Identification and search of all individuals unless otherwise provided herein must be made and authorization must be checked at these points. The search function for detection of firearms, explosives and incendiary devices shall be accomplished through the use of both firearms and explosive detection equipment capable of detecting those devices. The licensee shall subject all persons except bona fide federal, state, and local law enforcement personnel on official duty to these equipment searches upon entry into a protected area. When the licensee has cause to suspect that an individual is attempting to introduce firearms, explosives, or incendiary devices into protected areas, the licensee shall conduct a physical pat-down search of that individual. However firearms or explosives detection equipment at a portal is out of service or not operating satisfactory, the licensee shall conduct a physical pat-down search of all persons who would otherwise have been subject to equipment searches. The individual responsible for the last access control function (controlling admission to the protected area) shall be isolated within a bullet-resisting structure as described in paragraph (c)(6) of this section to assure his or her ability to respond or to summon assistance. By (120 days from the effective date of this amendment) each licensee shall submit revisions to its security plan which define how the final search requirements of this paragraph will be met. The final search requirements of this package must be implemented by the licensee within 60 days after Commission approval of the proposed security plan revision.

* * * * *

Dated at Washington, DC, this 27th day of July 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-20347 Filed 7-31-84; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 721

Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration.

ACTION: Proposed rule—Federal Credit Union Insurance and Group Purchasing Activities.

SUMMARY: Part 721 of the NCUA Rules and Regulations, 12 CFR Part 721, addresses Federal credit union ("FCU") involvement in insurance and other group purchasing activities, through which insurance and other goods and services are made available from third party vendors to credit union members. Pursuant to § 721.1 of the regulation, an FCU may perform administrative functions for the third party vendors offering these plans to credit union members. Section 721.2 of the regulation limits the reimbursement that an FCU may receive for performing such functions. This proposal requests comment on elimination of the reimbursement restrictions for the functions FCU's perform in connection with credit-related insurance.

DATE: Comments must be received on or before November 30, 1984.

ADDRESS: Send comments to Rosemary Brady, Secretary, NCUA Board, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Director, Department of Legal Services, or Hattie Ulan, Staff Attorney, at the above address or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION:

Background of Regulation

Part 721 of the NCUA Rules and Regulations concerns Federal credit union participation in insurance and group purchasing activities, through which insurance and other goods and services are made available from third party vendors to credit union members. Part 721 has two sections. Section 721.1 authorizes an FCU to perform administrative functions for the vendor, and to endorse a vendor's plan if it chooses. Section 721.2 places limits on compensation or reimbursement to the FCU for administrative functions that it performs for the vendor. Part 721 was most recently amended and substantially deregulated in the fall of 1982. (See 47 FR 44242 and 47 FR 52408). At that time the NCUA Board indicated that after one year it would review the limitations on compensation to FCU's under § 721.2 with a view toward further deregulation. This proposal, which is the final step of that review, requests comment on removing the limitations for credit-related insurance and any other group purchasing activities that may be incidental to an FCU's express statutory powers. (As explained below, staff has concluded that, for legal reasons, the limitations on nonincidental group purchasing activities cannot be removed.)

FCU Authority To Offer and Be Compensated for Group Purchasing Plans

FCU's are not expressly granted the authority to offer group purchasing plans to their members. The authority comes from one of two sources: (1) The incidental powers clause of the FCU Act (12 U.S.C. 1757(15)) and court decisions interpreting it; or (2) court decisions that authorize certain activities as being goodwill in nature. There is no legal limit on compensation for activities that are authorized as incidental powers (defined by the courts as useful or convenient in connection with the performance of an express power, e.g., the issuance of credit insurance is incidental to the express power to grant loans). Activities that are not incidental (e.g., the issuance of a prepaid legal services plan is not incidental to any of an FCU's express powers) may be engaged in only as goodwill activities and may not generate income for the FCU. Hence, any compensation for goodwill services is limited to reimbursement for the FCU's costs.

Present Regulatory Limits on Compensation

Although there are no statutory or judicial limits on FCU compensation for

activities that are authorized as incidental powers, NCUA historically has not allowed FCU's to generate income from any groups purchasing activity, i.e., FCU's could only be reimbursed for their costs. This policy continues to prevail in the present rule for all group purchasing activities except for insurance. The reimbursement rules for insurance were changed in the fall of 1982.

The reimbursement provisions of the current rule allow for the following: For credit insurance (which is incidental to the FCU's express power to make loans) the FCU may receive a certain dollar amount per policy or 10% of the premium rate. For other types of insurance the FCU may receive the documentable costs of functions performed or a certain dollar amount per policy (designed to approximate cost and eliminate the need for cost documentation). For all other group purchasing plans, the FCU may receive only the cost of functions performed.

The limitations on credit insurance were imposed to prevent "reverse competition," a phenomenon that some observers have suggested would develop whereby creditors seek out insurance paying the highest commission, without due regard for the cost of the insurance to the consumers. Since credit union members, like other consumers, can be expected to shop for loans according to interest rates, they may not be sensitive to the cost of credit life and disability insurance (which is generally not included in the Truth in Lending rate disclosure). It has thus been argued that credit union members may receive more expensive and possibly lesser quality insurance if there are no limits placed on compensation to the credit union.

Request for Comment

The NCUA Board questions whether FCU's should be restricted in the amount of compensation they may receive for administrative functions performed in connection with services that are incidental to their express powers. In order to obtain public comment on this issue, the Board has proposed that the reimbursement restrictions on credit-related insurance be lifted. This would include credit life insurance, credit disability insurance or any other insurance provided to a member in connection with granting a loan to that member.

The issue is whether limitations on reimbursement to the credit union should be retained in order to prevent reverse competition or for other reasons, or whether the limitations should be lifted in order to provide FCU's the ability to receive additional income, such as insurance commissions (if permitted by applicable state law). In either case, employees and officials of the credit union would be prohibited from receiving commissions. This is a requirement of the present rule that the Board does not propose to change.

The Board understands the concerns of those who fear the results of reverse competition, but questions whether economic regulation of this type is appropriate by NCUA. The Board believes it may be preferable to allow the state insurance commissions and the boards of directors of individual FCU's to determine the products and rate structure that are in the best interests of the member. The Board does wish to stress, however, that the issue is not predetermined. The proposed change is intended as a vehicle to obtain a full and open consideration of the issue.

The proposed change would be accomplished by adding a new § 721.2(b)(1) which provides that a Federal credit union is not limited for reimbursements received for credit insurance plans "except as otherwise provided by applicable state law." The reference to state law is to clarify that it is not NCUA's intent to interfere with the authority and ability of state insurance commissioners to regulate insurance activities.

The Board also requests comment on what, if any, non-credit-insurance activities can be said to be incidental to an FCU's express powers, and, if so, whether the reimbursement restrictions on these activities should be lifted.

The NCUA Board only proposes to change the reimbursement section of the regulation (12 CFR 721.2). Section 721.1, which authorizes FCU performance of administrative functions for third party vendors and endorsement of such vendors' plans, will remain the same.

Regulatory Procedures

The NCUA Board has determined and certifies that the proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small credit unions because the proposed regulation reduces restrictions, and increases management flexibility. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 12 CFR Part 721

Credit unions, Insurance, Group purchasing.

Dated: July 25, 1984.

Rosemary Brady,

Secretary of the Board.

Authority: 12 U.S.C. 1757(15); 12 U.S.C. 1766(a).

PART 721—[AMENDED]

It is proposed that 12 CFR 721.2 be revised to read as follows:

721.2 Reimbursement.

(a) For purposes of paragraph (b) of this section, the following definitions shall apply:

(1) "Dollar amount" shall mean $4 per single payment policy, $6 per combination policy, or $4 per annum for any other type of policy.

(2) "Cost amount" shall mean the total of the direct and indirect costs to the Federal credit union of any administrative functions performed on behalf of the vendor. The Federal credit union must be able to justify this amount using standard accounting procedures.

(b) A Federal credit union may be reimbursed or compensated by a vendor for activities under § 721.1 as provided below:

(1) except as otherwise provided by applicable state law, reimbursement or compensation is not limited for credit insurance plans (i.e., credit life insurance, credit disability insurance and other insurance provided in connection with extensions of credit members);

(2) for insurance plans other than credit insurance plans, a Federal credit union may receive an amount not exceeding the greater of the dollar amount or the cost amount;

(3) for group purchasing plans other than insurance plans, a Federal credit union may receive an amount not exceeding the cost amount.

(c) No official or employee of a Federal credit union or any member of their immediate family may receive any compensation or benefit, directly or indirectly, in conjunction with any activity under paragraph (b) of this section.

[FR Doc. 84-20275 Filed 7-31-84; 8:45 am]
BILLING CODE 7535-01-M

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12 CFR Parts 741 and 746

Banks and Banking; National Credit Union Share Insurance Fund

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Recently enacted legislation provides for an increase in the capitization of the National Credit Union Share Insurance Fund (NCUSIF or Fund) by the placing of a deposit in the NCUSIF from each insured credit union in an amount equaling one percent of

the credit union's insured shares. The NCUA Board (Board) requests comment on procedures to implement the legislation.

DATES: Comments will be received until September 7, 1984. It is proposed that initial implementation coincide with the NCUSIF's present insurance cycle, with statements mailed to insured credit unions during December, 1984, and funds due by January 31, 1985.

ADDRESS: Send comments to Secretary, NCUA Board, 1776 G St., NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Charles Filson, Director, Office of Programs, or Robert Fenner, Director, Department of Legal Services, at the above address. Telephone numbers: (202) 357–1132 (Mr. Filson); (202) 357–1030 (Mr. Fenner).

SUPPLEMENTARY INFORMATION:

Background

The NCUSIF was created in 1970 by Public Law 91–468 to provide share insurance coverage to all Federal credit unions and to those state chartered credit unions that apply and meet minimum qualification standards. As of the end of fiscal year 1983, the NCUSIF insured over 81 billion dollars in member savings of over 11,000 Federal credit unions and nearly 5,000 state chartered credit unions. The NCUSIF provides share (savings) insurance coverage up to $100,000 for each of an insured credit union's members, similar to the coverage provided by the Federal deposit insurance funds. Unlike those funds, however, the NCUSIF was not capitalized at its inception by tax revenues. The capital of the Fund has been established solely through the annual insurance premium contributions of insured credit unions. During the period from 1971 through the end of calendar year 1980, the capital of the fund (i.e., equity as a percentage of insured shares) grew from 0.054% to 0.303%. The years 1981–1983 saw a reversal of this trend, however, due to both record share growth in insured credit unions and liquidation and problem credit union expenses. At year end 1983, the capital level of the Fund had decreased to 0.290%, notwithstanding costly second premium assessments that were paid by insured credit unions for 1982 and 1983. As an alternative to the double premium approach to establishing a strong and viable Fund, the Board developed a legislative proposal which, with the support of the entire credit union system, was enacted as Public Law 98–369.

The essential elements of the legislation are as follows:

First, in continuing with the self-help tradition of the credit union system, the increased capitalization of the NCUSIF is accomplished solely by the financial support of insured credit unions. This support will take the form of a deposit with the Fund by each credit union of an amount equaling one percent of the credit union's total insured shares. Each credit union's deposit will be adjusted annually in accordance with changes in the credit union's insured shares. Initially, it is projected that the total of these deposits will bring approximately $850 million into the Fund, increasing its size from $250 million to $1.3 billion and raising its ratio of equity to insured savings to 1.3% or more.

The legislation changes the "normal operating level" of the Fund from its present 1% to equal a 1.3% ratio. Any funds in excess of the level must be distributed to insured credit unions at least annually. It is projected that in normal operating years, the earnings on the assets of the Fund will not only be sufficient to maintain the Fund at its normal operating level and meet the expenses of the Fund, but will also permit the rebate of each credit union's annual insurance premium as well as a dividend on each credit union's deposit.

An insured credit union's deposit is returnable in the event the credit union's insurance coverage is teminated, it converts to insurance coverage from another source, or in the event the operations of the Fund are transfered from the NCUA Board. In light of both the returnable nature of the deposit and the expectation of an annual dividend, the deposit will be carried as an asset on the books of the credit union.

An immediate benefit of the legislation is the elimination of a second insurance premium in 1984. The legislation in fact removes the authority for second premiums. It is also anticipated that initial funding of the 1% deposit will result in an equity level that facilitates other immediate benefits, such as a rebate of the 1983 premium, waiver of the 1984 premium and/or the declaration of an initial dividend. The nature and amount of such benefits are of course dependent upon the experience of the Fund and that of insured credit unions over the remainder of 1984.

Request for Comment

Issues relevant to implementation of the legislation are largely procedural. The major substantive considerations, i.e., the amount of each credit union's deposit and annual premium and the Fund's "normal operating level," are established in the legislation itself. The Board has, however, identified five broad areas of issues, set forth below, that must be addressed in implementing the legislation. Comments are requested from all interested parties both on these issues and on any other aspects of the capitalization plan.

Because of time constraints, specific proposed rule language has not been set forth. At least two sections of NCUA's current regulations will be revised, however, as a result of the legislation: Section 741.5 (12 CFR 741.5) concerning insurance premium statements and Part 746 (12 CFR Part 746) concerning premium rebate procedures for insured credit unions. It is anticipated that this request for comment will be followed by the adoption of *final* rules and procedures (including revised forms) to implement the legislation.

Issue 1—Funding of Deposit

As previously indicated, the historical method of funding the NCUSIF has been through payment of annual insurance premiums by NCUSIF-insured credit unions. For this purpose insurance statements have been mailed to insured credit unions in December with payments due the following January. It is proposed that both the initial funding of the 1% deposit and, thereafter, the annual adjustments be incorporated into that cycle, and that the necessary statements and payments be consolidated as much as possible. It is important to implement this process as soon as possible in order to put into place the program that will facilitate the elimination of double premiums and the payment of premium rebates and annual dividends.

Thus, for example, in December of 1984 all insured credit unions would be provided with a statement for use in certifying the credit union's insured shares as of December 31, 1984, and determining both the credit union's 1985 insurance premium (1/12 of 1% of 12/31/84 shares) and the initial 1% deposit. If current trends continue, payment of those amounts into the Fund in January of 1985 would provide an equity base in excess of the normal operating level of 1.3%, and thus it seems advisable to consider various methods of enabling credit unions to realize an immediate benefit at the time of preparation of the statement. Transfer of the required funds might for example be offset by an immediate premium rebate for either 1984 or 1985, declaration of an initial dividend on the deposit, or some combination thereof. Comments are requested on the advisability of providing such a benefit and the form it

would most properly take. Also under consideration are the feasibility and advisability of declaring dividends or distributions semiannually or more frequently, as a device to enable insured credit unions to more closely monitor the performance of the Fund. Comments are welcome on this issue as well.

Another issue relative to funding of the 1% deposit is whether to do so immediately or, in the alternative, to provide for a phase-in by insured credit unions. The statute provides that this decision is in the discretion of the NCUA Board. In this connection, the Board wishes to adopt the method that is least costly to insured credit unions. Correspondence from insured credit unions to date and the projections of NCUA staff indicate that immediate funding would prove more economical in that it would bring the Fund to the operating level at which it can pay the premium rebates and dividends that will minimize the ongoing cost of insurance. Also, there is a question whether, as a matter of fairness, a credit union that phased in its deposit would be entitled to the rebate and dividends that are premised upon full capitalization. The Board, however, wishes to receive information from insured credit unions concerning the most economical approach to initial funding.

Also, regardless of whether general phase-in procedures are established, it should be noted both that the NCUA Central Liquidity Facility has announced the availability of capitalization loans for those credit unions that would face liquidity strains in meeting the initial 1% funding requirement and that other difficulties in meeting the funding requirement can be addressed on a case-by-case basis as has historically been true with NCUA's supervisory program.

Finally, relevant to funding of the deposit, it is noted that the legislation redefines the NCUSDIF's "normal operating level" as 1.3 percent of the aggregate of all insured shares or "such lower level as the Board may determine." It is proposed that the authority to establish a lower operating level not be exercised at this time, but rather, kept in reserve in the event that experience demonstrates that a lower level would meet the objectives of maintaining a financially sound fund at a minimum cost to insured credit unions.

Issue 2—Return of Deposit

The legislation provides that each insured credit union's 1% deposit is returnable to the credit union in the event that (1) the credit union's insurance coverage is terminated, (2) it converts to insurance coverage from another source, or (3) the operations of the Fund are transferred from the Board. The return of a credit union's deposit is to be determined in accordance with "procedures and valuation methods" determined by the Board.

Detailed procedures are not necessary to implement this provision of the legislation. The Board would simply propose to return the full amount of the credit union's deposit immediately after the last date on which any shares of the credit union are insured, with the deposit being valued as of the credit union's most recent annual adjustment. The Board would reserve the right to alter these procedures and delay payment by up to one year, as authorized by the legislation, if the Board determined that immediate payment would jeopardize the financial condition of the Fund.

Issue 3—Use of Deposit by the Fund and Replenishment by Insured Credit Unions

The legislation provides that the NCUSIF may utilize the deposit funds if necessary to meet its expenses, in which case the amount used is to be expensed and replenished by insured credit unions in accordance with procedures established by the Board. Given the history of the Fund and the condition of insured credit unions, it seems unnecessary to anticipate at this time any possible utilization of the deposit funds to meet the Fund's expenses. This authority is clearly intended to meet a catastrophic economic set of circumstances, as evidenced by the fact that it can only be exercised after the Fund has utilized all investment income and all of its 0.3% nondeposit equity. Thus, ample time would exist for development of expense and replenishment procedures and guidelines. Accordingly, such procedures are not proposed at this time.

Issue 4—Insurance Agreement

Each federally insured credit union has entered into an insurance agreement with the NCUA Board obligating the credit union to, among other things, pay the insurance premium required by Title II of the Federal Credit Union Act. It will be necessary to modify this agreement, by addendum or replacement, to reflect the obligations of the credit union and the Board concerning the 1% deposit. It is recommended that insured credit unions review their insurance agreements and provide suggestions for appropriate modifications. Also, this would seem to be an appropriate opportunity to review and update the overall agreement. General comment is therefore welcome concerning possible clarification of and improvements in the insurance agreement.

Issues 5—Report to Congress

The legislation calls for the NCUA Board to report annually to Congress with respect to the operating level of the Fund. The report is to contain the results of an independent audit of the Fund. The Board presently obtains an independent audit of the Fund on a fiscal year basis, to coincide with the general operations of NCUA and with the General Accounting Office's audit of the Fund. It is proposed that the report on the operating level of the Fund be incorporated into this process and prepared on a fiscal year basis.

Conclusion

As previously indicated, the above five issues represent the major areas that must be addressed in implementing the capitalization legislation. Comments are welcome from credit unions and others on these or any issues relevant to implementation and maintenance of the increased capitalization of the Fund. Because of time constraints, specific regulatory language and proposed forms and procedures have not been published. It is anticipated that final rules, procedures and forms will be adopted after consideration of all comments and prior to December, 1984.

Regulatory Procedures

The NCUA Board has determined and certifies that the proposed implementation of the NCUSIF capitalization program will not have a significant adverse impact on insured credit unions, because the program provides a less costly alternative for providing a sound and viable Federal share insurance fund. Therefore, a regulatory flexibility analysis is not required.

Authority: 12 U.S.C. 1789(b)(2).

Dated: July 25, 1984.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84-20274 Filed 7-31-84; 8:45 am]

BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 221, 250, 255, and 298

[EDR-474; Economic Regulations Docket 41971]

Tariffs; Oversales; Counter Signs

Dated: July 6, 1984.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing alternative ways to consolidate and simplify several consumer protection notices that the CAB requires air carriers to display on counter signs. The first alternative would require all air carriers and travel agents to post a short counter sign at all ticket sales locations and passenger and baggage check-in locations at airports in the U.S. The second option would be to require air carriers operating large aircraft to post a Board-mandated summary of major consumer rules at all carrier ticket sales positions and airport passenger and baggage check-in positions in the U.S., and require travel agents and operators of small aircraft to post the short sign. Combinations of the two main options are also proposed. This proposal is in response to a petition by the American Association of Airport Executives, the Airport Operators Council International and the Air Transport Association of America.

DATES: Comments: September 17, 1984. Reply comments: October 2, 1984.

ADDRESS: Joanne Petrie, Office of the General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, (202) 673–5442.

SUPPLEMENTARY INFORMATION:

Background

The Civil Aeronautics Board requires air carriers to display several notices on counter signs to alert passengers to the consumer protections to which they are entitled and the carrier limitations on liability. These notices cover such subjects as oversales, domestic and international baggage liability, limits of liability for death or injury and the right of passengers to inspect the tariffs governing their air transportation. These notice requirements are set forth in three separate parts and several different sections of the Code of Federal Regulations (§§ 221.173, 221.175, 221.176, 250.11, and 298.30).

Section 221.173 requires each air carrier to post a counter sign with Board-mandated language in large type concerning the public inspection of tariffs. The notice tells passengers where and how they may examine the tariffs applicable to their travel, and states that they do not have to explain why they want to examine them. The Board recently denied a petition to eliminate this notice. Order 83–9–116. In that Order, the Board found that the notice benefitted passengers and was not burdensome to carriers.

Section 221.175 requires ticket notices and counter signs concerning limitations of liability for death or injury under the Warsaw Convention. It states that the limitation is $75,000 per person and that additional coverage usually may be obtained from a private company.

Section 221.176, *Notice of limited liability for baggage; alternative consolidated notice of liability limitations,* also requires both counter signs and ticket notices. At present, air carriers are required to provide information only about limitations of liability for foreign air transportation under the Warsaw Convention, not about liability limitations for domestic travel. The notice states that the limit is $9.07 per pound unless an extra charge is paid, and that special rules may apply to valuables. In addition, it advises passengers to consult the carrier for details.

The requirement of part 250, *Oversales,* is more general. It requires carriers to post a sign and include a ticket notice that states that some flights may be overbooked and that some passengers may not be accommodated even though they have confirmed reservations. Although basic rights are described, specifics as to the amount of compensation are not required. The Board adopted this notice after an extensive investigation into the overbooking and denied boarding compensation practices of airlines in 1978. In ER–1050, 43 FR 24277, June 5, 1978, the Board found that if carriers chose to overbook, they would have to provide notice to passengers on tickets and counter signs, rather than constructive notice in tariffs as had previously been the case.

The most general counter sign requirement is found in § 298.30. That rule requires air taxis to post a notice with wording of their own choice stating their policy on baggage liability and denied boarding compensation.

The Petition

On February 2, 1984, the American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America filed a joint petition for rulemaking with the Board. The petitioners asked the Board to consolidate and simplify four of the consumer protection notices that are presently required to be posted on counter signs. They alleged that the current notices are too long to be read by passengers and too large to be accommodated at ticket counters. They suggested that the four notices be consolidated into the following notice that could be displayed in ¼ inch type on a 6 by 12 inch sign:

Passenger Rights

Passenger rights concerning airline liability and compensation for denied boarding; loss, delay, or damage to baggage; personal injury or death; and other tariff obligations are available from the airline ticket agent and the airline ticket.

The petitioners noted that in most cases the four notices are displayed on a placard that contains 290 words and measures 6¼ by 23 inches. This sign does not technically meet the Board's requirement that the lettering on the sign be at least ¼ of an inch. If all the notices were printed in the large type size, however, the petitioners calculate that the sign would take up more than half of the average ticket counter.

The petitioners acknowledged that the basic notices are improtant. Without the notices, air carriers might not be able to limit their liability. The petitioners concluded, however, that the current signs do not provide effecting because they are too long and too difficult to read. They argued that since their proposed sign is simple, it is more likely to be read. In addition, they argued that "the necessity for simplicity is especially self evident since multilingual signs are being used by an increasing number of airports."

Secondly, the petitioners argued that their notice is more practical since it will rarely have to be changed or updated. Their proposed notice merely lists the subject areas for which there are consumer protections. Since it does not include any details, for example the $1250 minimum liability limitation for domestic baggage, airport operators and air carriers would not have to change the sign each time there was a change in the underlying rule. The petitioners argued that such a semi-permanent sign would be more efficient and cost-effective.

Finally, in order to minimize the burden of this proposed rule change, the petitioners asked the Board to permit the consolidated sign to be phased in on a replacement basis, rather than requiring it across the board on a certain date.

The Regional Airline Assoication supported the petition. In addition, it asked that the Board amend §§ 298.30, 298.95(b) and 221.176(g), which were not cited by the petitioners but would be affected by their proposed rule change.

Jefferson County Airport supported the petition. It asked the Board to shorten airline ticket counter signs because counter space is at a premium.

Propose Action

The Board tentatively finds that a consolidated and simplified counter sign notice would be in the public interest. The current notices are wordy, and may not be the most efficient method of providing information to passengers. The information required by these notices is often similar or identical to the notice that the Board requires on or with the ticket.

In the past, lengthy signs were needed because it was difficult for passengers to find information about their rights. Before 1983, many of the rules were buried in voluminous and hard-to-read tariffs. In order to overcome this problem and give passengers usable information, the Board required a number of relatively detailed notices to be displayed on counter signs. These notices were adopted on an ad hoc basic in conjunction with rulemaking proceedings on each substantive consumer rule. Over time, the Board adopted at least five different counter sign notices. Although each notice by itself is relatively understandable, when they are viewed together they may be intimidating or incomprehensible to some passengers.

The Board is proposing to add a new Part 255, *Counter Signs,* and is requesting comments on two different options. Option I would apply to air carriers and foreign air carriers at all locations where tickets are sold and all passenger and baggage check-in locations in the United States. The rule would require carriers and travel agents to post a short counter sign alerting passengers that they have rights or that there are limitations on liability in the areas of denied boarding, baggage liability, smoking, and personal injury and death, and that they can obtain further information from their ticket or their ticket agent. The short notice is a revised version of the notice proposed by the airport operators.

Because of the rule's applicability, the notice would have to be general. Air taxis, for example, may set their own rules on baggage liability and denied boarding compensation. It would be misleading to require signs at air taxi ticket locations that state that airlines may not limit their domestic baggage liability below $1,250, when in fact that minimum baggage liability limit may not apply. Travel agents may sell tickets for both large and small airlines, which are subject to different rules. At travel agencies, therefore, a general notice would be more accurate than the "long notice" proposed in Option 2.

The second option would have a two-tier notice requirement. Air carriers and foreign air carriers operating aircraft with more than 60 seats would be required to post a counter sign summarizing the major consumer protection rules, including baggage, denied boarding compensation, limitations of liability for death and personal injury in foreign travel and the availability of traiffs and contracts of carriage for inspection. This notice would have to be posted at each of its ticket counter positions and at all passenger and baggage check-in positions. Air taxis and travel agents would be required to post the shorter version of the notice at each location where they sell tickets.

Under the existing rules, carriers are required to post most counter signs only at ticket-selling locations, not at other locations where passengers can check in for a flight. The Board tentatively concludes that there is no reason for this limitation, and proposes to extend the notice requirement to all locations where passengers can check in for their flight, even if tickets are not sold there. Much of the information on both the existing and proposed counter signs would be useful to passengers at the time they check in for their flights, as well as at the time they buy their tickets.

The current rules require carriers to post most counter signs at "each desk, station, or position" that sells tickets. Option 1 of the proposed rule would change this to "each location" that sells tickets or checks in passengers or baggage. This option would require only one posted sign in an area such as a travel agency office or an airline's airport ticketing area. Option 2 would retain the "desk, station, or position" language for air carrier ticket sales locations (thus requiring a sign for each sales position), but refer to "each location" for notices at other airport check-in locations, at travel agencies, and at air taxi offices. We request comments, however, on whether the short sign should be required at "each desk, station, or position," or whether the long sign should only be required "at each location."

Another proposal on which comments are requested is that only the long-form (Option 2) baggage notice be displayed at positions (e.g., "curb-side") used only for baggage check-in. This could be combined with either main option.

The Board especially requests comments on the advantages and disadvantages of continuing to require counter signs at every "position," or whether the existing requirements should be changed to allow carriers to post a single sign in a conspicuous public place at each "location" where tickets are sold or passengers or baggage are checked in. Comments are also invited on whether the standard should be different for travel agencies, air taxis, or non-ticketing airport check-in locations.

The Board requests comments on whether to include smoking on these counter signs. Up to now, a smoking notice has not been included on Board-mandated counter signs. The recent rulemaking on smoking (Docket 41431), however has demonstrated that smoking is an important issue to many passengers. While most passengers seem to know that no-smoking sections are available, they may not be aware that they are entitled to a seat in those sections even if the seats originally set aside for that purpose are already filled. The simple notice proposed would ensure that passengers know their rights and should eliminate many disputes that are based on lack of knowledge about the rule. Foreign air carriers, which are not subject to the Board's smoking rule, would be allowed to omit this portion of the notice.

The "short" notice contains 35 words compared to the present 290-word notice. It would measure approximately 5 inches by 7 inches. The "long" notice contains 171 words and would measure approximately 10 inches by 18 inches. The layout of both notices if designed to highlight the important passenger rights. The "long" notice may or may not have legal advantages over the shorter one favored by petitioners. Under common law and the Warsaw Convention, passengers must be given "adequate" notice for airlines' limitations on liability to be effective.

Both options would change the current requirement found in § 221.175 that Board-mandated notices be posted at travel agencies and ticket locations outside the U.S. The Board tentatively finds that this change would be in the public interest because it would provide comity with foreign countries. If carriers operating ticket counters in foreign countries wanted to post a sign, they of course would be free to do so.

The Board is not proposing any change in § 298.95 as requested by the RAA, because we tentatively find that their concern has been answered by our recent interpretative amendment, ER–1378, 49 FR 14085, April 10, 1984. That rule revised § 298.95, which had required that small certificated carriers follow the Board rules on domestic baggage for all of their operations. The Section was conformed with the new domestic baggage rule, which applies to all domestic flights with more than 60 seats and to passengers whose ticket includes at least one flight segment on an aircraft

with more than 60 seats. Aircraft size, rather than the mere fact of holding a certificate, is the relevant fact. If either option is adopted, paragraph (a) of § 298.30, *Public disclosure of policy on consumer protection,* would be amended to conform with the new Part 255. Similarly, if the Board adopts either option, it will revise paragraph (g) of § 221.176 to conform with the counter sign requirement.

The proposed rule would also address RAA's concern that the present sign requirements are confusing since different rules apply to certificated and noncertificated air carriers. The notice would be based solely on whether the carrier operated any large aircraft.

Finally, the Board requests comments on whether, if the rule is adopted, air carriers should be required to display the new sign by a certain date, or whether it should be phased in on a replacement basis. The former approach has the virtue of avoiding confusion within the industry and among passengers. The latter approach may also be acceptable, since passengers would continue to receive the detailed notices.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a significant economic impact on a substantial number of small entities.

The analysis is required to describe the need, objectives, legal basis for, and flexible alternatives to the agency's proposed action. These requirements are met by the discussion above the below. In addition, the analysis must include a description of the small entities to which this proposal would apply, the reporting, recordkeeping, or other compliance requirements of the proposed rule, and any other Federal rules that may duplicate, overlap, or conflict with it.

The Board tentatively concludes that either option of this rule, if adopted as proposed, may have a significant economic impact on a substantial number of small entities. Both options would benefit the approximately 22,000 U.S. travel agencies, many of which are "small entities" within the meaning of the Act. Under both proposals, travel agents would be required to post a short sign in all their offices. Compared to the present Board-mandated notices, the new sign would be shorter, less confusing and graphically more appealing. The consolidated notice would benefit travel agents because it would reduce the number of notices that are currently required to be posted. In addition, because of the more general nature of the sign, the Board expects that there would be few changes to it.

There are over 200 commuter air carriers. If the Board required them to post the short sign, there would be both burden and benefit. The benefit would be that a Board-mandated sign is more convenient, shorter and legally acceptable than the current carrier-specific notices. The burden would be the small cost of purchasing the signs and installing them.

The Board also tentatively finds that there are no duplicative, overlapping or conflicting Federal requirements.

List of Subjects in 14 CFR Parts 221, 250, 255, and 298

Air carriers, Air rates and fares, Consumer protection, Credit, Denied boarding compensation, Explosives, Freight, Handicapped, and Reporting and recordkeeping requirements.

Proposed Rule

PART 221—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend Chapter II of Title 14 as follows:

§§ 221.173 and 221.175 [Amended]

1. In Part 221, § 221.173, *Notice of tariff posting,* and paragraph (b) of § 221.175, *Special notice of limited liability for death or injury under the Warsaw Convention,* would be removed and reserved.

2. Also, in Part 221, § 221.176, *Notice of limited liability for baggage; alternative consolidated notice of liability limitations,* would be amended by removing and reserving paragraph (a), by removing the reference to paragraph (a) in paragraph (e) of that section, and by revising paragraph (g) so that it reads as follows:

§ 221.176 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

(a) [Reserved]

* * * * *

(e) The requirements as to time and method of delivery of the notice (including the size of type) specified in paragraph (b) of this section and the requirement with respect to travel agents specified in paragraph (c) may be waived by the Board upon application and showing by the carrier that special and unusual circumstances render the enforcement of the regulations impractical and unduly burdensome and that adequate alternative means of giving notice are employed.

* * * * *

(g) Notwithstanding any other provision of this section, no air taxi operator subject to Part 298 of this subchapter shall be required to give the ticket notices prescribed in this section, either in its capacity as an air carrier or in its capacity as an agent for an air carrier or foreign air carrier.

PART 250—[AMENDED]

3. In Part 250, § 250.11 would be amended by removing and reserving paragraph (a), by revising paragraph (b) to include the notice presently in paragraph (a), and revising paragraphs (c) and (e) to remove references to paragraph (a), so that as revised § 250.11 would read:

§ 250.11 Public disclosure of deliberate overbooking and boarding procedures.

(a) [Reserved]

(b) Every carrier shall include with each ticket sold in the United States the the following notice printed in at least 12-point type. The notice may be printed on a separate piece of paper, the ticket stock, or on the ticket envelope. The last two sentences of the notice shall be printed in a type face contrasting with that of the rest of the notice.

Notice—Overbooking of Flights

Airline flights may be overbooked, and there is a slight chance that a seat will not be available on a flight for which a person has a confirmed reservation. If the flight is overbooked, no one will be denied a seat until airline personnel first ask for volunteers willing to give up their reservation in exchange for a payment of the airline's choosing. If there are not enough volunteers the airline will deny boarding to other persons in accordance with its particular boarding priority. With few exceptions persons denied boarding involuntarily are entitled to compensation. The complete rules for the payment of compensation and each airline's boarding priorities are available at all airport ticket counters and boarding locations. Some airlines do not apply these consumer protections to travel from some foreign countries, although other consumer protections may be available. Check with your airline or your travel agent.

(c) It shall be the responsibility of each carrier to ensure that travel agents authorized to sell air transportation for that carrier comply with the notice provisions of paragraph (b) of this section.

(d) [Reserved]

(e) Any air carrier or foreign air carrier engaged in foreign air transportation that complies fully with this part for inbound traffic to the United States need not use the last two

sentences of the notice required by paragraph (b) of this section.

4. A new Part 255, *Counter Signs,* would be added to read as set forth under the heading of either Option 1 or Option 2.

PART 255—COUNTER SIGNS

OPTION 1:

Sec.
255.1 Applicability.
255.2 Notice requirements.

§ 255.1 Applicability

This part applies to all direct air carriers and direct foreign air carriers providing passenger air transportation.

§ 255.2 Notice requirements.

Air carriers and foreign air carriers shall cause to be displayed continuously, in a conspicuous public place at each location within the United States where the carriers' tickets are sold, and at each U.S. airport passenger or baggage check-in location, a sign printed in type at least ¼ inch high with the following statement:

Passenger Rights

Information is available on your ticket or from your ticket agent about your rights concerning:
—Denied boarding
—Lost, damaged or delayed baggage
—Smoking
—Personal injury or death (international)
—Other contract or tariff terms.

OPTION 2:

Sec.
255.1 Applicability.
255.2 Definition.
255.3 Notice requirements.

§ 255.1 Applicability.

This part applies to all direct air carriers and direct foreign air carriers providing passenger air transportation.

§ 255.2 Definition.

For the purposes of this part:

"Carrier ticket sales position", means every desk, station, and position where tickets are sold that is in the charge of a person employed exclusively by an air carrier, or of such person jointly with another person.

§ 255.3 Notice requirements.

(a) Every air carrier and foreign air carrier operating aircraft with more than 60 seats shall cause to be displayed continuously, in a conspicuous public place at each carrier ticket sales position and each airport passenger or baggage check-in position in the United States, a sign printed in type at least ¼ inch high with the following statement. Carriers operating both large and small aircraft may, at their discretion, furnish further information about the applicability of the rules mentioned.

Alternative proposal: The signs would only have to be posted "at each location," as in Option 1, and the definition would be deleted.

Passenger Rights

Denied Boarding

If a flight is oversold, this airline must ask for volunteers willing to give up their seats. If you don't volunteer but are bumped anyway, you may be entitled to compensation.

Baggage Liability

If an airline loses, damages or delays your baggage, it is not required to pay you more than $1250 per person for domestic air travel or $9.07 per pound for international travel unless you declare a higher value and pay an extra charge. You still must show the extent of your loss.

Smoking

You have the right to sit in the no-smoking section, and this section must be expanded to accommodated you if you meet the airline's check-in deadline.

Note.—Foreign air carriers may omit this smoking notice.

Death and Injury

For international travel, airline liability for death or injury is limited to $75,000 per passenger.

Contracts and Tariffs

Additional rules and details are on your ticket. Those not on the ticket are in the airline's contract of carriage or tariff rules, which are available for inspection. Ask for further information.

(b) Air carriers and foreign air carriers, except for locations covered by the requirements of paragraph (a) of this section, shall cause to be displayed continuously in a conspicuous public place at each location where the carriers' tickets are sold within the United States a sign printed in type at least ¼ inch high with the following statement:

Passenger Rights

Information is available on your ticket or from your ticket agent about your rights concerning:
—Denied boarding
—Lost, damaged or delayed baggage
—Smoking
—Personal injury or death (international)
—Other contract or tariff terms.

Additional Proposal: (May be combined with either option):

Only the baggage notice described in Option 2 would be required at positions (such as "Curbside check-in" points) that are used only for checking in baggage.

PART 298—[AMENDED]

5. In Part 298, paragraph (a) of § 298.30 would be revised to read:

§ 298.30 Public disclosure of policy on consumer protection.

(a) Every air taxi shall post counter signs as required by Part 255 of this chapter.

* * * * *

(Secs. 102, 104, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-20344 Filed 7-31-84; 8:45 am]
BILLING CODE 6320-01-M

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14 CFR Part 223

[Economic Regulations Docket No. 42007; EDR-473]

Free and Reduced-Rate Transportation

Dated: July 12, 1984.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to eliminate the recordkeeping requirement in its rule on free and reduced-rate air transportation. This action was requested by the Air Transport Association of America.

DATES: Comments by: September 17, 1984.

Reply comments by: October 2, 1984.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: August 17, 1984.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 42007, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in

Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules and Legislation Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5444.

SUPPLEMENTARY INFORMATION: Part 223 of the Board's regulations (14 CFR Part 223) sets forth the rules on free and reduced-rate transportation. It lists those instances where a carrier may charge less than its tariff rate without seeking permission from the Board. It also contains recordkeeping requirements.

Prior to the Airline Deregulation Act of 1978 (Pub. L. 95-504), the Board tightly controlled airline fares. Its rules on free and reduced-rate air transportation were consequently restrictive. To support those rules, Part 223 contained extensive reporting and recordkeeping requirements. Those requirements mandated the filing with the Board of three copies of all company rules governing the issuance of free or reduced-rate travel passes. The company rules had to include the titles of officials authorized to issue or countersign passes, or to request passes from other carriers. When company rules were changed, three copies of the changes had to be filed with the Board within 30 days.

Since deregulation, the Board's control over air fares has diminished. On January 1, 1983, the Board stopped regulating domestic air fares. This called for a change in Part 223.

Accordingly, by EDR-452, 48 FR 2385, January 19, 1983, the Board proposed to revise its rules on free and reduced-rate transportation. Among other things, it proposed to eliminate reporting requirements in the rule, including those summarized above.

During the comment period following the issuance of EDR-452, however, concerns were expressed about eliminating these reporting requirements. Commenters argued that the Board should retain these requirements in order to prevent abuses in the granting of free and reduced-rate travel privileges, and to give the public access to carrier rules in this area.

The Board agreed. ER-1371, 48 FR 57115, December 28, 1983. It noted that it had long ensured that the public had access to carrier rules on the provision of air transportation where full payment was required. It concluded that it was also important to continue to require airlines to make available rules with respect to free and reduced-rate transportation.

In recognition of its more limited role in this area, however, the Board converted the reporting requirement into a mere recordkeeping requirement. Rather than having to submit to the Board three copies of their company rules regarding free travel passes whenever they revised them, airlines now must keep only one copy of those rules in their files. These rules must be furnished to the Board on request rather than on a regular basis. They also must be provided to a member of the public upon payment of a reasonable charge.

This recordkeeping requirement is in § 223.6 (14 CFR 223.6). It was approved by the Office of Management and Budget (OMB) and assigned control number 3024-0002.

Shortly after this rule went into effect, the Air Transport Association of America (ATA), representing 17 airlines, filed a petition for rulemaking in which it asked the Board to repeal the recordkeeping requirements in § 223.6. It was ATA's position that, with respect to interstate and overseas (domestic) air transportation, the Board had neither the authority nor a regulatory purpose for adopting § 223.6. It also claimed that the recordkeeping requirements relating to free and reduced-rate transportation had been repealed by ER-1219, 46 FR 25418, May 6, 1981.

ATA viewed carrier rules on free and reduced-rate transportation as different from those governing tranportation for which the passenger had to pay. In the latter case, the Board permits the carriers to incorporate by reference contractural terms that are binding. Since the passenger is bound, ATA acknowledged that there is a need to give passengers access to those rules. But it contended that this is not true in the case of free and reduced-rate transportation. Rules on who receives free travel passes are solely within a carrier's discretion. ATA argued that there is therefore no reason for these internal policy choices to be made public or be supplied to competitors.

With respect to foreign air transportation, ATA conceded that the Board had legal authority for § 223.6, but questioned whether there was any regulatory purpose for this recordkeeping requirement. It stated that there was no evidence of any abuses in the granting of free travel passes. If such abuses occured, ATA urged that they be handled by "strong management," enforcement of existing regulations, or through the tariff system, but without the "creation of a new paperwork burden."

Carriers formerly had to submit three copies of these rules to the Board. Now they merely have to keep them on file and make them available upon request. The recordkeeping requirement repealed by ER-1219 is not the same one involved here. It is not clear that there have been no abuses in this area. During the previous rulemaking on free and reduced-rate transportation (Docket 41193), two commenters claimed that abuses did occur. There charges were not rebutted by the airlines.

Nevertheless, the Board recognizes that the need for reporting and recordkeeping requirements was not the focus of the earlier rulemaking proceeding, and that there are reasons for not continuing them. Elimination of § 223.6 would reduce somewhat the paperwork burden on carriers, in furtherance of the Paperwork Reduction Act, Pub. L. 96-511. There is, as ATA argued, less of a need for public notice of carrier rules on the granting of free travel passes. These rules are not binding on passengers in the same sense that the carrier's tariffs or contracts of carriage are. They are more a matter of internal company policy.

The Board is therefore proposing to eliminate § 223.6. This will give the Board and all interested parties an opportunity to focus on the continued need for this recordkeeping requirement.

Regulatory Flexibility Act

In accordance, with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-534, the Board certifies that this rule, if adopted as proposed, will not have a significant economic impact on a substantial number of small entities. The recordkeeping requirements involved here is not a substantial one. Its retention or elimination would therefore not have a significant economic impact.

List of Subjects in 14 CFR Part 223

Air rates and charges, Handicapped, Travel agents

PART 223—[AMENDED]

§ 223.6 [Removed]

Accordingly, the Board proposes to amend 14 CFR Part 223, *Free and Reduced-Rate Transportation*, by removing and reserving §223.6, *Carrier's rules.*

(Secs. 204, 403, 404, 405(j), 407, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 758, 760, 766, 771, 49 U.S.C. 1324, 1372, 1374, 1375, 1377,

1386; sec. 2 of the Postal Reorganization Act, 84 Stat. 767, 39 U.S.C. 5007)

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-20343 Filed 7-31-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Placement of Bromazepam, Camazepam, Clobazam, Clotiazepam, Cloxazolam, Delorazepam, Estazolam, Ethyl Loflazepate, Fludiazepam, Flunitrazepam, Haloxazolam, Ketazolam, Loprazolam, Lormetazepam, Medazepam, Nimetazepam, Nitrazepam, Nordiazepam, Oxazolam, Pinazepam, and Tetrazepam in Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: After consideration of the recommendation of the Assistant Secretary for Health, Department of Health and Human Services (DHHS), the Administrator of the Drug Enforcement Administration (DEA) proposes to issue a temporary order controlling 21 benzodiazepine substances in Schedule IV of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). The 21 benzodiazepine substances are bromazepam, camazepam, clobazam, clotiazepam, cloxazolam, delorazepam, estazolam, ethyl loflazepate, fludiazepam, flunitrazepam, haloxazolam, ketazolam, loprazolam, lormetazepam, medazepam, nimetazepam, nitrazepam, nordiazepam, oxazolam, pinazepam, and tetrazepam. This action is required in order for the United States to discharge its obligations under the Convention on Psychotropic Substances, 1971. The effects of this rule would be to require that the manufacture, distribution, dispensing, security, registration, record keeping, inventory, exportation and importation of each of the 21 substances be subject to controls for Schedule IV substances. The temporary scheduling order for each substance shall remain in effect until the process of permanent scheduling, pursuant to 21 U.S.C. 811 (a) and (b) of the CSA, is completed.

DATE: Comments on the temporary order must be received on or before August 31, 1984.

ADDRESS: Comments should be submitted in qunituplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

By notice (NAR/CL.4/1984; DND 421/12(1-7); March 29, 1984), the Secretary-General of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs (CND) has decided that thirty-three (33) benzodiazepines be added to Schedule IV of the 1971 Convention on Psychotropic Substances. Of the 33 benzodiazepines, twelve (alprazolam, chlordiazepoxide, clonazepam, clorazepate, diazepam, flurazepam, halazepam, lorazepam, oxazepam, prazepam, temazepam, and triazolam) have already been controlled in Schedule IV of the CSA and meet the requirements of Schedule IV of the Convention on Psychotropic Substances.

By a letter dated May 1, 1984, the Assistant Secretary for Health, on behalf of the Secretary of DHHS, recommended to the Administrator of DEA that the remaining twenty-one (21) benzodiazepines also be controlled in CSA Schedule IV, the most appropriate domestic schedule for carrying out U.S. obligations under the Psychotropic Convention. Further, the Assistant Secretary advised that the scheduling should be accomplished using authority provided by sections 201(d)(3)(B) and 201(d)(4) (A) and (C) of the CSA. This allows for the issuance of a temporary order controlling a substance in Schedule IV or V, depending upon whichever is most appropriate to carry out the minimum United States obligations, within the time period required by paragraph 7 of article 2 of the Convention, that is, within 180 days after the date of the CND communication.

Based on the notification of the Secretary-General of the United Nations and the consultation of the Secretary, DHHS, with respect to the 21 benzodiazepine substances, received in accordance with section 201(d)(3)-(5) of the CSA (21 U.S.C. 811(d) (3)-(5)), and under the authority vested in the Attorney General by section 201(d)(4) (A) and (C) of the CSA (21 U.S.C. 811(d)(4) (A) and (C)) and delegated to the Administrator by regulations of the Department of Justice (28 CFR Part 0.100), the Administrator hereby proposes that 21 CFR 1308.14(c) (3)-(24) be revised in order to include the 21 additional benzodiazepine substances and be redesignated as § 1308.14(c) (3)-(45) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(3) Bromazepam.....2748
(4) Camazepam.....2749
(5) Chloral betaine.....2460
(6) Chloral hydrate.....2465
(7) Chlordiazepoxide.....2744
(8) Clobazam.....2751
(9) Clonazepam.....2737
(10) Clorazepate.....2768
(11) Clotiazepam.....2752
(12) Cloxazolam.....2753
(13) Delorazepam.....2754
(14) Diazepam.....2765
(15) Estazolam.....2756
(16) Ethchlorvynol.....2540
(17) Ethinamate.....2545
(18) Ethyl loflazepate.....2758
(19) Fludiazepam.....2759
(20) Flunitrazepam.....2763
(21) Flurazepam.....2767
(22) Halazepam.....2762
(23) Haloxazolam.....2771
(24) Ketazolam.....2772
(25) Loprazolam.....2773
(26) Lorazepam.....2885
(27) Lormetazepam.....2774
(28) Mebutamate.....2800
(29) Medazepam.....2836
(30) Meprobamate.....2820
(31) Methohexital.....2264
(32) Methylphenobarbital (mephorbarbital).....2250
(33) Nimetazepam.....2837
(34) Nitrazepam.....2834
(35) Nordiazepam.....2838
(36) Oxazepam.....2835
(37) Oxazolam.....2839
(38) Paraldehyde.....2585
(39) Petrichloral.....2591
(40) Phenobarbital.....2285
(41) Pinazepam.....2883
(42) Prazepam.....2764
(43) Temazepam.....2925
(44) Tetrazepam.....2886
(45) Triazolam.....2887

* * * * *

All interested persons are invited to submit their comments in writing regarding this proposal. Comments should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the placement of the 21 benzodiazepines into Schedule IV of the CSA will have no impact upon small businesses or

other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the initial control of substances with no legitimate medical use in the United States and must be carried out in order to fulfill United States international treaty obligations, in any event.

In accordance with the provisions of 21 U.S.C. 811(d), this scheduling action is a formal rulemaking that is required by United States obligations under international convention, that is, the Convention on Psychotropic Substances, 1971. Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and as such, have been exempted from the consultation requirements of Executive Order 12991 (46 FR 13193).

Dated: July 25, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84–20296 Filed 7–31–84; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. 40671–4071]

Trademark Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: Patent and Trademark Office proposes amendments to the rules of practice in trademark cases to revise and clarify the requirements for drawings and to revise the filing date requirements for an application for registration of a mark. The amendments also revise the requirements for specimens submitted in connection with applications for service marks not used in printed or written form. The proposed amendments are needed to reduce the computer system storage space required for drawings; to insure that all applications which are filed can be searched under the automated search system; to insure that drawings can be faithfully reproduced by photocomposition techniques; and to codify the existing practice in accepting audio cassette tape recordings as specimens in connection with sound mark applications.

DATES: Written comments by October 30, 1984.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, D.C. 20231; Attn: Ellen J. Seeherman. Written comments will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ellen J. Seeherman by telephone at (703) 557–7464 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office is considering amendments to the rules of practice in trademark cases to amend the requirements for receiving a filing date for an application for registration of a mark and to amend the requirements for submissions of drawings and for sound mark specimens.

The specific rules for which amendments are proposed are §§ 2.21, 2.52 and 2.58. In addition, it is proposed to remove § 2.54.

Section 2.21 is proposed to be amended by revising paragraph (a)(3). The amendment will require that a drawing meet all of the requirements of § 2.52 if the application is to be accorded a filing date. If a drawing does not meet the requirements of satisfactory reproduction characteristics and size, the application will be denied a filing date and, under the provisions of § 2.21(c), will be returned to the person who submitted the application. At present, a drawing not meeting the requirements of § 2.52 is accepted for examination, but must be corrected before publication or allowance. However, with automated searching informal drawings will not be reproducible on a computer terminal display screen, and will therefore be unavailable for searching until a corrected drawing is submitted many months later. This will seriously compromise the integrity of trademark searches and will adversely affect applicants and the public.

Section 2.52 is proposed to be amended by revising paragraphs (a), (b), (c) and (e) to emphasize the characteristics essential to satisfactory reproduction of drawings.

Paragraph (a) of § 2.52, as proposed, reiterates that all lines and letters must be black, and clarifies that this requirement applies to shading. This will insure that the drawing will be suitable for printing and for viewing on the display screen.

Paragraph (b) of § 2.52, as proposed, clarifies the type of paper which must be used for the drawing.

Paragraph (c) of § 2.52 is proposed to be amended to limit the size of the mark as depicted on the drawing sheet to 4 inches (10.3 cm) in height and 4 inches (10.3 cm) in width, with 2.5 inches (6.1 cm) in height and width the preferable size. At present, marks which exceed these sizes must be reduced for printing purposes and for display on a computer terminal. This may result in a loss of clarity. If details, such as color lining, which are part of the mark will be precluded by the size limitation, it is proposed that a verbal description be inserted in the application instead.

Paragraph (e) of § 2.52, as proposed, amends the depiction of the color chart to indicate that larger spaces between lines are preferred for color linings. Reducing the density of the color lining will improve the clarity of the marks when they are reproduced.

Section 2.54 is proposed to be removed since proposed § 2.21 will make this section unnecessary.

Section 2.58, paragraph (b), is proposed to be amended to allow tape cassette recordings rather than disc recordings to be submitted as specimens for service marks not used in printed or written form. This codifies the present practice. In view of this proposed amendment, paragraph (b) is also proposed to be amended by eliminating the provision that the Office will arrange to have disc recordings made from any type of recording the applicant submits.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be 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.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354) since any additional burden would be minimal and not disproportionate in effect.

This rule contains no new information collection requirement for the purpose of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The existing application requirements referenced in

this rule have been approved by OMB (Approval No. 0651–0009).

List of Subject in 37 CFR Part 2

Administrative practice and procedures, Courts, Lawyers, Trademarks.

Notice is hereby given that pursuant to the Commissioner's authority under Section 41 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. 1123, and section 6 of the Act of July 19, 1952, as amended, 35 U.S.C. 6, the Patent and Trademark Office proposes to amend Part 2 of Title 37 of the Code of Federal Regulations as set forth below.

In the text of the proposed amendments, additions are indicated by arrows and deletions are indicated by brackets.

It is proposed to amend 37 CFR, Part 2 as follows:

1. Section 2.21 is proposed to be amended by revising paragraph (a) to read as follows:

§ 2.21 Requirements for receiving a filing date.

(a) Materials submitted as an application for registration of a mark will not be accorded a filing date as an application until all of the following elements are received:

(1) Name of the applicant;

(2) A name and address to which communications can be directed;

(3) A drawing of the mark sought to be registered [containing the information required by paragraph (d)] ►meeting all the requirements◄ of § 2.52;

(4) An identification of goods or services;

(5) At least one specimen or facsimile of the mark as actually used;

(6) A date of first use of the mark in commerce, or a certification or certified copy of a foreign registration if the application is based on such foreign registration purusant to section 44(e) of the Trademark Act, or a claim of the benefit of a prior foreign application in accordance with section 44(d) of the Act;

(7) The required filing fee for at least one class of goods or services. Compliance with one or more of the rules relating to the elements specified above may be required before the application is further processed.

* * * * *

2. Section 2.52 is proposed to be revised to read as follows:

§ 2.52 Requirements for drawings.

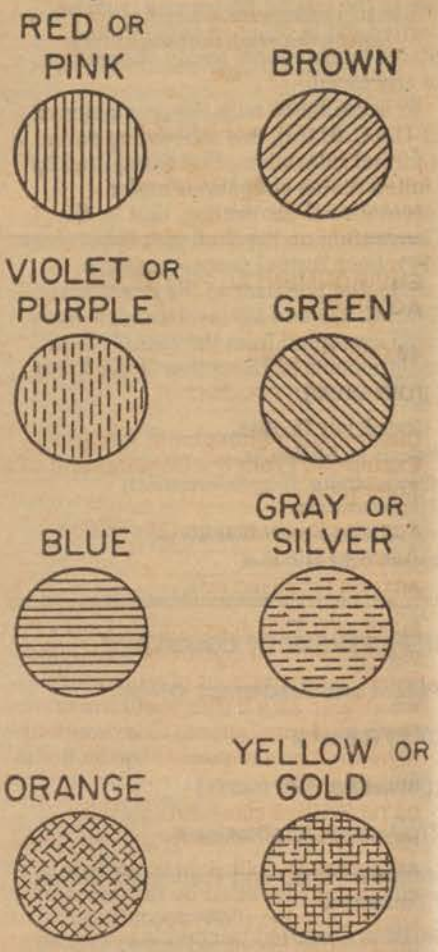
(a) *Character of drawing.* All drawings, except as otherwise provided, must be made with the pen or by a process which will ►provide high definition upon◄ [give them satisfactory] reproduction [characteristics]. A photolithographic reproduction or printer's proof copy may be used if otherwise suitable. Every line and letter ►, including color lining and lines used for shading,◄ must be black. [This direction applies to all lines, however fine, and to shading.] All lines must be clean, sharp, and solid, and [they] must not be [too] fine or crowded. [Surface shading, when used, should be open.] ►Gray tones or tints may not be used for surface shading or any other purpose.◄ The requirements of this paragraph are not necessary in the case of drawing permitted and filed in accordance with paragraph (d) of § 2.51.

(b) *Paper and ink.* The drawing must be made upon ►paper which is flexible, strong, smooth, nonshiny,◄ [pure] white and durable [paper, the surface of which is calendered and smooth]. A good grade of bond paper is suitable►; however, water marks should not be prominent◄. India ink [alone] ►or its equivalent in quality◄ must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

(c) *Size of paper and margins.* The size of the sheet on which a drawing is made must be 8 to 8½ inches (20.3 to 21.6 cm.) wide and 11 inches (27.9 cm.) long. One of the shorter sides of the sheet should be regarded as its top. ►It is preferable that the drawing be 2.5 inches (6.1 cm.) high and/or wide, but in no case may it be larger than 4 inches (10.3 cm.) high and 4 inches (10.3 cm) wide. If the amount of detail in the mark precludes a reduction to this size, such detail may be verbally described in the body of the application.◄ [When the figure is longer than the width of the sheet, the sheet should be turned on its side with the top at the right. The size of the mark must be such as to leave] ►There must be◄ a margin of at least 1 inch (2.5 cm.) on the sides and bottom of the paper and at least 1 inch (2.5 cm.) between ►the drawing◄ [it] and the heading.

(d) *Heading.* Across the top of the drawing, beginning one inch (2.5 cm.) from the top edge and not exceeding one fourth of the sheet, there must be placed a heading, listing in separate lines, applicant's complete name, applicant's post office address, the dates of first use of the mark and first use of the mark in commerce (except for an application filed under section 44 of the Trademark Act), and the goods or services recited in the application or a typical item of the goods or services if a number of items are recited in the application. This heading should be typewritten.

(3) *Linings for color.* Where color is a feature of a mark, the color or colors employed may be designated by means of conventional linings as shown in the following color chart:



3. Section 2.54 is proposed to be removed.

[**§ 2.54 Informal Drawings.**

A drawing not in conformity with § 2.51 or paragraphs (a), (b), (c), or (e) of § 2.52 or § 2.53 may be accepted for purpose of examination, but the drawing must be corrected or a new one furnished, as required, before that mark can be published or the application allowed.]

4. Section 2.58 is proposed to be amended by revising paragraph (b) to read as follows:

§ 2.58 Specimens or facsimiles in the case of a service mark.

* * * * *

(b) In the case of service marks not used in printed or written form, three [single face, unbreakable, disc] ►audio cassette tape◄ recordings will be accepted. [The speed at which the recordings are to be played must be specified thereon. If facilities are not

available to the applicant to furnish recordings of the required type, the Patent and Trademark Office may arrange to have made, upon request, and at applicant's expense, the necessary disc recordings from any type of recording the applicant submits.]

Dated: June 12, 1984.

Donald J. Quigg,

Deputy Commissioner of Patents and Trademarks.

[FR Doc. 84-20251 Filed 7-31-84; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300091; FRL-2642-5]

Diammonium Phosphate; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that diammonium phosphate be exempted from the requirement of a tolerance when used as a buffer or surfactant in pesticide formulations. This proposed regulation was requested by the Rohm and Haas Co.

DATE: Written comments must be received on or before August 31, 1984.

ADDRESS: By mail, submit written comments identified by the document control number [OPP-300091] to: Information Services Section (TS-767C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS-757C), Rm. 236, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

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

Office location and telephone number: Registration Support and Emergency Response Branch (TS-767C), Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of Rohm and Haas Co., the Administrator proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for diammonium phosphate as a buffer or surfactant in pesticide formulations applied to growing crops only.

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

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

Name of inert ingredient: Diammonium phosphate.

Name and address of requestor: Rohm and Haas Co., Philadelphia, PA 19105.

Bases for approval: Diammonium phosphate is GRAS under 21 CFR 182.1141 and 21 CFR 582.1141. The material is a salt of ammonium hydroxide and phosphoric acid, which are cleared under 40 CFR 180.1001(c). Pursuant to section 2(ee)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), ammonium phosphate as a fertilizer (in this case a 21-53-0 [nitrogen, phosphorous, potassium] fertilizer) may be mixed with pesticides.

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

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

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP-300091]." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: July 20, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

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

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Diammonium phosphate (CAS Reg. No. 7783-28-0).	.....	Buffer, surfactant.
* * * * *		

* * * * *

[FR Doc. 84-20117 Filed 7-31-84; 8:45 am]

BILLING CODE 6662-50-M

40 CFR Part 455

[OW-FRL 2644-3]

Pesticide Chemicals Category; Effluent Limitations Guidelines and New Source Performance Standards; Pesticide Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA proposed effluent limitations guidelines and standards for the pesticide industry on November 30, 1982. On June 13, 1984 EPA published a notice of availability and request for comments which made available for public review technical and economic data and supportive documentation gathered and developed subsequent to the proposal of the regulations. EPA is today extending the comment period on the notice of availability from July 30, 1984 to September 13, 1984.

DATES: Comments on the notice of availability must be submitted by September 13, 1984.

ADDRESSES: Send comments to Mr. George M. Jett, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460, Attention: EGD Docket Clerk. The supporting information is available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear), (PM-213). The comments will be made available as they are received. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. George Jett (202) 382-7180 for information regarding the technical data, and Ms. Josette Bailey (202) 382-5382 for information regarding the economic data.

SUPPLEMENTARY INFORMATION: On November 30, 1982 EPA proposed effluent limitations guidelines and standards for the pesticide industry. EPA has gathered additional data and information subsequent to the proposal of these regulations. On June 13, 1984 EPA published a notice of availability and request for comments in order to give the public the opportunity to review the additional data. The June 13, 1984 notice stated that the comments on the notice were to be submitted by July 30, 1984. The Agency has received requests for an extension of the comment period from the pesticide industry stating that the industry needs additional time to comment fully on the notice of availability because a support document was unavailable until two weeks after the publication of the notice. In order to allow the industry a sufficient period of time to comment upon this document, the *Nonconfidential Statistics and Guidelines Methodology Report*, June 13, 1984, which was also made available to the public after publication of the notice, (Section II.B.1, Volume 51 of the Record), the Agency is extending the comment period until September 13, 1984. In order to allow the public to comment more fully on the notice of availability, the Agency is also supplementing the public record for the notice by including individual plant nonconventional pesticide data which inadvertently had been placed in the confidential portion of the record. This information will be found in section II.B.4e, Volume 52 of the Record.

The extension of the comment period will give the public adequate time to comment on the data and the support documents. The deadline for all comments pertaining to the material published at 49 FR 24492 on June 13, 1984 is September 13, 1984. However, the Agency encourages the public to submit comments on the notice prior to the expiration of the comment period so that the Agency may begin evaluating those comments at an earlier date.

Dated: July 26, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-20300 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-519; RM-4419]

TV Broadcast Station in Gayles or Shreveport, LA; Changes Made in Table of Assignment

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: Action taken herein dismisses the petition filed by Saul Dresner to assign UHF Television Channel 45 to Gayles, Louisiana because of no showing of continuing interest.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Gayles or Shreveport, Louisiana) MM Docket No. 83-519, RM-4419.

Adopted: July 12, 1984.

Released: July 23, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 28495, published June 22, 1983, proposing the assignment of UHF Television Channel 45 to either Gayles or Shreveport, Louisiana. The *Notice* was adopted in response to a petition filed by Saul Dresner ("Petitioner"). Petitioner initially stated that he or an entity of which he is a part, would promptly apply for operation on the channel, if assigned, but has since requested the withdrawal of his proposal. No other comments on the proposal were received.

2. As stated in the *Notice*, a showing of continuing interest is required before a channel will be assigned. Therefore, in accordance with Commission policy, no further consideration will be given to the assignment of UHF Television Channel 45 to Gayles or Shreveport, Louisiana.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That the petition of Saul Dresner is dismissed.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning the above, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-20131 Filed 7-31-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1096; RM-4487]

TV Broadcast Station in Seminole, OK; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: Action taken herein dismisses the petition of Ted M. Phillips to assign UHF Television Channel 64 to Seminole, Oklahoma because of no showing of continuing interest.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Seminole, Oklahoma) MM Docket No. 83-1060, RM-4487.

Adopted: July 12, 1984.

Released: July 23, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 48 FR 47029, published October 17, 1983, proposing the assignment of UHF Television Channel 64 to Seminole, Oklahoma, as that community's first television broadcast service. The *Notice* was adopted in response to a petition filed by Ted M. Phillips ("petitioner"). No comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned. No other comments on the proposal were received.

2. As stated in the *Notice*, a showing of continuing interest is required before a channel will be assigned. Petitioner has indicated he is no longer interested in the channel. Therefore, in accordance with Commission policy, no further consideration will be given to the assignment of Channel 64 to Seminole, Oklahoma.

3. It is ordered, That the petition of Ted M. Phillips, is dismissed and this proceeding is terminated.

5. For further information concerning the above, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-20132 Filed 7-31-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-707; RM-4738]

TV Broadcast Station in Flagstaff, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of VHF TV Channel 4 to Flagstaff, Arizona, at the request of Larry G. Fuss, Sr. The assignment could provide a third commercial TV channel to Flagstaff.

DATES: Comments must be filed on or before September 14, 1984, and reply comments on or before October 1, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Flagstaff, Arizona). (MM Docket No. 84-707 RM-4738).

Adopted: July 12, 1984.

Released: July 24, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Larry G. Fuss, Sr. ("petitioner") seeking the assignment of VHF TV Channel 4 to Flagstaff, Arizona, as that community's third commercial TV channel. The petitioner has stated his intention to apply for the channel, if assigned.

2. Flagstaff (population 30,743) [1], the seat of Coconino County (population 75,008), is located in northern Arizona, approximately 300 kilometers (125 miles) north of Phoenix, Arizona. It presently has three television channels (Channel 2, licensed to Station KNAZ-TV; Channel 13, application pending; and Channel *16, reserved for noncommercial educational use, unoccupied and unapplied for). Channel 4 can be assigned in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.9 miles south to avoid short-spacing to Station KVOA-TV, Channel 4, Tucson, Arizona, and to an application for Channel 4 at Cedar City, Utah.

3. We believe that sufficient information has been submitted to warrant consideration of petitioner's proposal. Since Flagstaff is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires the concurrence of the Mexican government.

4. In view of the fact that Flagstaff could receive an additional television service, we shall seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Flagstaff, Arizona.	2, 13, and *16	2, 4+, 13, and *16

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 14, 1984, and reply comments on or before October 1, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Larry G. Fuss, Sr., 331 Bellford Court, Mars, Pennsylvania 16046 (Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend*

[1] Population figures are taken from the 1980 U.S. Census.

§§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments offically filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.006(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-20279 Filed 7-31-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-708; RM-4742; RM-4770]

TV Broadcast Station in Bad Axe, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign and reserve UHF TV Channels 35 and 57, for noncommercial educational use, at Bad Axe, Michigan, in response to requests from Delta College and Central Michigan University, respectively. The assignments could provide Bad Axe with its first and second noncommercial educational facilities.

DATES: Comments must be filed on or before September 14, 1984, and reply comments on or before October 1, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR 73

Television broadcasting.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Bad Axe, Michigan) MM Docket No. 84–708, RM–4742, RM–4770.

Adopted: July 12, 1984.

Released: July 24, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration two petitions for rule making seeking noncommercial educational television assignments at Bad Axe, Michigan. Delta College ("Delta") seeks the assignment and reservation of UHF TV Channel 55 (RM–4742) and Central Michigan University ("CMU") requests the assignment and reservation of UHF TV Channel 57. Both parties have stated their intention to apply for the channels, if assigned.

2. Channel 57 can be assigned in compliance with the Commission's mileage separation requirements, but Channel 55 cannot. However, a staff study shows that Channel 35 can be assigned in conformance with the Commission's technical requirements. Therefore, we shall propose the assignment and reservation of Channel 35 in lieu of Channel 55.

3. Bad Axe, (population 3,184) [1], seat of Huron County (population 36,459), is

[1] Population figures are taken from the 1980 U.S. Census.

located in the east central portion of the state, approximately 160 kilometers (100 miles) north of Detroit, Michigan. Bad Axe, currently has assigned noncommercial educational Channel *15, which is not available for broadcast use due to the Commission's decision in Docket 18261. Therefore, the proposed assignment of Channels *35 and *57 could provide Bad Axe with its first and second noncommercial educational services. We shall also propose to delete Channel *15 from Bad Axe.

4. Since Bad Axe is located within 400 kilometers (250 miles) of the U.S.-Candian border, the concurrence of the Canadian Government is being requested.

5. Accordingly, we propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, for the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Bad Axe, Michigan	*15– [1]	*35, *57–

[1] Following the decision in Docket No. 18261, channels so indicated will not be available for television use until further action by the Commission.

6. Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note. A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before September 14, 1984, and reply comments on or before October 1, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, as follows:

Wayne Coy, Esq., Cohn and Marks, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036 (Counsel to Delta College)

Alan C. Campbell, Esq., Michael D. Basile, Esq., Dow, Lohnes & Albertson, Washington, D.C. 20036 (Counsel to CMU)

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 305)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 9.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in rely comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-20280 Filed 7-31-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-722; RM-4769]

TV Broadcast Station In Manteo, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of VHF TV Channel 4 to Manteo, North Carolina, as that community's first local television assignment, at the request of Virginia B. Whichard.

DATES: Comments must be filed on or before September 17, 1984, and reply comments on or before October 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Manteo, North Carolina) MM Docket No. 84-722, RM-4769.

Adopted: July 11, 1984.

Released: July 25, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Virginia B. Whichard ("petitioner") requesting the assignment of VHF TV Channel 4 to Manteo, North Carolina, as that community's first local television assignment. The channel can be assigned in compliance with the Commission's minimum mileage separation requirements. The petitioner has stated her intention to apply for the channel, if assigned.

2. Manteo (population 901 [1], the seat of Dare County (population 13,377), is located on the Outer Banks of North Carolina, approximately 108 kilometers (68 miles) southeast of Virginia Beach, Virginia.

3. In view of the expressed interest in providing Manteo with its first local television service, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Rules, for the community listed below:

City	Channel No.	
	Present	Proposed
Manteo, North Carolina		4

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

[1] Population figures are taken from the 1980 U.S. Census.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 17, 1984, and reply comments on or before October 2, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows:

Virginia B. Whichard, 152 Ocean Boulevard, Kitty Hawk, North Carolina

Edward M. Johnson & Associates, Inc. One Regency Square, Suite 450, Knoxville, Tennessee 37915 (Consultant to petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau , (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 305.)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(l), 303 (g), and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initital comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to built a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comnment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decisions in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which the Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the persons filing the comment. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of

service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an orginal and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at the headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 84-20285 Filed 7-31-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-717; RM-4711]

FM Broadcast Station in Linden, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 296A to Linden, Alabama, in response to a petition filed by Larry G. Fuss, Sr. The proposed assignment could provide a first FM service to that community.

DATES: Comments must be filed on or before September 17, 1984, and reply comments on or before October 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the mater of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Linden, Alabama) MM Docket No. 84-717, RM-4711.

Adopted: July 11, 1984.
Released: July 25, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Larry G. Fuss, Sr. ("petitioner"), requesting the assignment of FM Channel 296A to Linden, Alabama, as that community's first FM service. The petitioner submitted information in support of the proposal and indicated an interest in applying for the channel, if assigned.

2. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.207 of the Rules provided there is a site restriction of 5.0 miles southwest of Linden to prevent short spacing to FM Station WKXX, Channel 295, Birmingham, Alabama.

3. In view of the fact that the proposed assignment could provide a first FM service to Linden, Alabama, the Commission believes it is appropriate the propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Linden, Alabama		296A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 17, 1984, and reply comments on or before October 2, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner as follows: Larry G. Fuss, Sr., 331 Bellford Court, Mars, Pennsylvania 16046.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceedings, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat. as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of §1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-20281 Filed 7-31-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-721; RM-4731]

FM Broadcast Station in Barstow, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of D.L. Developments, proposes to assign Channel 240A to Barstow, California, as the community's second FM assignment.

DATES: Comments must be filed on or before September 17, 1984, and reply comments on or before October 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73-202(b), Table of Assignments, FM Broadcast Stations. (Barstow, California) MM Docket No. 84-721, RM-4731.

Adopted: July 11, 1984.
Released: July 25, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed on December 16, 1983, by D.L. Developments ("petitioner"), seeking the assignment of Channel 240A to Barstow, California, as the community's second FM channel. Petitioner has expressed an intention to apply for the channel, if assigned.

2. The channel can be assigned to Barstow in compliance with the minimum distance separation requirements. Since Barstow, California, is located within 320 kilometers (199 miles) of U.S.—Mexican border, the proposed assignment requires concurrence by the Mexican government.

3. In view of the fact that the proposed assignment could provide a second local FM service to Barstow, California, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Barstow, California	232A	232A, 240A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 17, 1984, and reply comments on or before October 2, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Frank U. Fletcher, Dan J. Alpert, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, D.C. 20036 (Counsel to Petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), and 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of apending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceedings.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the

consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as coments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the date set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 84-20284 Filed 7-31-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-720; RM-4588; RM-4654]

FM Broadcast Stations in Boston and Quitman, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignments of Channel 292A to Boston, Georgia and Channel 287A to Quitman, Georgia. The assignments could provide each community with its first FM service. This action was taken in response to two separate petitions filed, one by Donald E. White and Sons, Inc., and the other by Nankin Broadcasting.

DATE: Comments must be filed on or before September 17, 1984, reply comments on or before October 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Boston and Quitman, Georgia) MM Docket No. 84-720, RM-4588, RM-4654.

Adopted: July 11, 1984.
Released: July 25, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration two separate petitions for rule making. The first petition was filed by Donald E. White and Sons, Inc., ("White") requestion the assignment of Channel 292A to Boston, Georgia. The second petition was filed by Nankin Broadcasting ("Nankin") requesting the assignment of Channel 292A to Quitman, Georgia.[1] The assignment could provide either community with its first FM service. White and Nankin both expressed their intention to apply for the channel, if assigned to their requested community.

2. Boston and Quitman are only 33.7 kilometers (21 miles) apart and the minimum distance separation requirements for a co-channel is 105 kilometers (65 miles). The channel can not be assigned to both communities in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules. However, a channel search indicates that Channel 287A is available as an alternative assignment to Quitman.[2]

3. In view of the fact that the proposed assignments could provide a first FM service to both Boston and Quitman, Georgia, the Commission proposes to amend the FM Table of Assignments § 73.202(b) of the Commission's Rules, for the following communities:

City	Channel No.	
	Present	Proposed
Boston, Georgia		292A
Quitman, Georgia		287A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 17, 1984, and reply comments on or before October 2, 1984 and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Donald E. White and Sons, Inc., Route 2, Box 27-D, Meigs, Georgia 31765 (Petitioner)

Allen D. Denton, Nakin Broadcasting, 202 W. Screven Street, Quitman, Georgia 31643 (Petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commisson's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Federal Register 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the mater is no longer subject to Commission consideration or

[1] Nankin originally requested the assignment of Channel 292A to Nankin, Georgia, but subsequently modified its pleading to request Quitman Georgia.

[2] As these petitions were filed before effectiveness of the provision allowing the 16 kilometers (10 miles) buffer zone, this zone does not apply. *Memorandum Opinion and Order*, BC Docket No. 80-90, 49 FR 10260, March 20, 1984.

court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the in the proceeding. Any reply comments which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 306.)

Federal Communications Commisson.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the date set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished to the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-20283 Filed 7-31-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-719; RM-4691]

FM Broadcast Station in Detroit Lakes, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C FM Channel 236 for Channel 237A at Detroit Lakes, Minnesota, and modification of the license for Station KVLR (Channel 237A), in response to a petition filed by Knutson-Leighton, Inc. The assignment could provide Detroit Lakes with its first Class C channel.

DATES: Comments must be filed on or before September 17, 1984, and reply comments on or before October 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Detroit Lakes, Minnesota) MM Docket No. 84-719, RM-4691.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Knutson-Leighton, Inc. ("petitioner"), seeking the substitution of Class C Channel 236 for Channel 237A at Detroit Lakes, Minnesota, and modification of the license for Station KVLR to specify operation on Channel 236.

2. Petitioner submitted information in support of the proposal. It stated that the proposed amendment would permit KVLR to greatly increase its coverage area, thus bringing a new radio service to a large area.

3. Canadian concurrence must be obtained since the proposal is within 320 kilometers (200 miles) of the U.S.-Canadian border.

4. We believe the petitioner's proposal warrants consideration. The channel can be substituted in compliance with the minimum distance separation requirements provided there is a site restriction of 31.3 miles northwest of Detroit Lakes, Minnesota. The site restriction prevents a short spacing to an application for FM station KLKS on Channel 237A, Breezy Point, Minnesota. A short spacing of 0.44 miles to unused Channel 236 in Winnipeg, Manitoba, Canada, remains. In accordance with our estabished, policy, we shall propose to modify the license of Station KVLR (Channel 237A) to specify operation on Channel 236. However, if another party should indicate an interest in the Class C assignment, the modification could not be implemented. Instead, an opportunity for the filing of a competing application must be provided, if the channel is assigned. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

5. In order to provide a wide coverage area FM station, to Detroit Lakes, Minnesota, the Commission proposes to amend the FM Table of Assignments,

§ 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Detroit Lakes, Minnesota	237A	236

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before September 17, 1984, and reply comments on or before October 2, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner as follows: Jerrold Miller, Miller & Fields, P.C., P.O. Box 3303, Washington, D.C. 20033 (counsel for the petitioner).

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rule*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat. as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84–20282 Filed 7–31–84; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 49, No. 149
Wednesday, August 1, 1984

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

Forms Under Review by Office of Management and Budget

July 27, 1984.

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, ORIM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118

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

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

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

Revised

• Agricultural Marketing Service
Valencia Oranges Grown in Arizona and Designated Part of California—Marketing Order 908
N/A
On Occasion
Farms, Businesses or Other for-Profit: 108,636 responses; 14,612 hours; not applicable under 3504(h)
Raymond C. Martin, (202) 447–5127

• Agricultural Marketing Service
Navel Oranges Grown in Arizona and Designated Part of California—Marketing Order 907
N/A
On Occasion
Farms, Businesses or Other for-Profit: 110,343 responses; 16,210 hours; not applicable under 3504(h)
Raymond C. Martin, (202) 447–5127

Extension

• Food and Nutrition Service
Energy Assistance
N/A
Non-recurring
State or Local Government: 18 responses; 72 hours; not applicable under 3504(h)
Mildred Kriegel, (703) 756–3429
NEW

• Economic Research Service
Trucking of Fresh Produce and Ornamentals from Florida
N/A
Bimonthly Nov–June, 2 years
Individuals or Households, Businesses or Other for-Profit: 1,400 responses; 117 hours; not applicable under 3504(h)
William Gallimore, (202) 447–8487

Reinstatement

• Agricultural Marketing Service
South Texas Lettuce—Marketing Order No. 971
N/A
On Occasion, Annually
Farms, Businesses or Other for-Profit: 342 responses; 31 hours; not applicable under 3504(h)
Charles W. Porter, (202) 447–2615

Jane A. Benoit,

Acting Department Clearance Officer.

[FR Doc. 84–20358 Filed 7–31–84; 8:45 am]

BILLING CODE 3410–01–M

Policy Advisory Committee for the Science and Education Research Grants Program; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Grants and Program Systems announces the following meeting:

Name: Policy Advisory Committee for the Science and Education Research Grants Program.

Date: September 5, 1984.

Time: 9:00 a.m.

Place: U.S. Department of Agriculture, Room 111A, GHI Building, 500 12th Street, S.W., Washington, D.C. 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To advise the Secretary of Agriculture with respect to the research to be supported, priorities to be adopted and emphasized, and the procedures to be followed in implementing those programs of research grants to be awarded competitively.

Contact Person for Agenda and More Information

Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 112, West Auditors Building, Washington, D.C. 20251, telephone: 202–475–5022.

Done at Washington, D.C. this 2nd day of July, 1984.

Anne Holiday Schauer,

Executive Secretary, Policy Advisory Committee.

[FR Doc. 84–20357 Filed 7–31–84; 8:45 am]

BILLING CODE 3410–MT–M

Soil Conservation Service

Dyke Creek Watershed, NY; Finding of No Significant Impact

AGENCY: Soil Conservation Service.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil

Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dyke Creek Watershed, Allegany County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, James M. Hanley Federal Building, Room 771, 100 S. Clinton Street, Syracuse, New York 13260, telephone (315) 423–5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation of an environmental impact statement is not needed for this project.

The project concerns a plan for flood control. The planned works of improvement include a 3,850 foot earthen main dike and a 1,650 foot earthern auxiliary dike to be constructed adjacent to Dyke Creek. The dike entrance and exit will be protected using concrete filled fabriform to protect against velocities and eddying. Two flooded barriers will be installed along County Route 417 at bridge locations.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: July 23, 1984.

Paul A. Dodd,

State Conservationist.

[FR Doc. 84–20245 Filed 7–31–84; 8:45 am]

BILLING CODE 3410–16–M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Report on Results of Audit for Purposes of Rate Base Determination Invitation for Comments and Granting Intervention

Issued: July 30, 1984.

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Tentative Determination.

DATES: Comments should be submitted on or before September 3, 1984; reply comments should be submitted on or before September 18, 1984.

ADDRESS: For filing comments: J. Richard Berman, Director, Office of Regulatory Affairs, Office of the Federal Inspector, ANGTS, 1200 Pennsylvania Ave., NW., Box 290, Rm. 3400, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: J. Richard Berman (202) 275–1100.

SUPPLEMENTARY INFORMATION: The Federal Inspector has received from the Office of Regulatory Affairs a Tentative Determination on the expenditures incurred by Northern Border Pipeline Company (NBPL) related to the Eastern segment of the Alaska Natural Gas Transportation System (ANGTS) during the period April 1, 1982 through December 31, 1982. The report is based on two separate audit reports, copies of which can be acquired from Office of the Federal Inspector (OFI).

In accordance with established FERC procedures [1] and the OFI's Statement of Policy on General Standards and Procedures for Rate Base Audit and Approval for the ANGTS, the reports express an opinion as to whether: expenditures are properly assignable to the project and of a nature that would qualify the expenditures for eventual inclusion in the rate base; the accounting used by the sponsors meets the Uniform System of Accounts and generally accepted accounting principles; the project sponsors are in compliance with other accounting and reporting regulations and requirements of the Natural Gas Act, the *Decision* and the certificate of public convenience and necessity; and the sponsor's management and cost control systems were in place and operating as planned during the period under review.

The Federal Inspector solicits:

(A) Within 30 days of the notice date the comments of any interested person or persons as to why, or why not, for purposes of rate base determination pursuant to OFI Order No. 3, [2] the tentative determination should be made final.

(B) No later than 45 days after the notice date, any interested person may submit comments in response to any comment submitted within the 30-day period provided by paragraph (A) above.

Dated: July 30, 1984.

Peter L. Cook,

Deputy Federal Inspector.

[FR Doc. 84–20354 Filed 7–31–84; 8:45 am]

BILLING CODE 6119–01–M

[1] FERC Directive to the Office of the Chief Accountant, Administrative Order No. 4, dated April 18, 1981.

[2] 10 CFR Chapter XV, Order No. 3, Statement of Policy on General Standards for Rate Base Audit and Approval for the Alaska Natural Gas Transportation System, dated October 22, 1981.

CIVIL RIGHTS COMMISSION

Nebraska Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 5:00 p.m., on August 24, 1984, at the InterNorth, East Annex Building, 2027 Dodge Street, Omaha, Nebraska 68102. The purpose of the meeting is to develop program plans and activities for fiscal year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Central States Regional Office at (816) 374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, July 27, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–20349 Filed 7–31–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: Survey of Pollution Abatement Costs and Expenditures
Form Numbers: Agency—MA-200(A), MA-200 OMB—0607-0176
Type of Request: Revision of a currently approved collection
Burden: 20,000 respondents; 40,000 reporting hours
Needs and Uses: This survey is the only source of comprehensive industry data on pollution abatement capital expenditures, operating costs, and costs recovered. It provides data on the amount of money spent to abate air and water pollution and solid waste. Government agencies, industrial firms, and trade associations are the primary users of the data. The Bureau of Economic Analysis uses the data in the national economic accounts. The Environmental Protection Agency uses the pollution control expenditures estimates to verify the validity of its estimates.
Affected Public: Businesses or other for profit institutions
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: July 26, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84-20313 Filed 7-30-84; 8:45 am]
BILLING CODE 3510-CW-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration
Title: Franchising in the Economy
Form Numbers: Agency—ITA 910; OMB—0608-0047
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 1,700 respondents; 850 reporting hours
Needs and Uses: Information collected is used to determine the trends in the franchise method of distribution. This information is used by businesses, individuals, researchers, and interested offices of Federal and State governments for calculating market shares, corporate and program planning, and diversification planning and analysis
Affected Public: Businesses or other for-profit institutions, small businesses or organizations
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Sherri Fox, 395-7231

Agency: International Trade Administration
Title: Computer Systems Parameters
Form Numbers: Agency—ITA 6031A 88-6031A-P and EAR 376.10; OMB—0625-0038
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 2,500 respondents; 4,400 reporting hours
Needs and Uses: These forms are used to provide licensing personnel with the necessary information required for issuance of an export license to export computer systems to the Soviet Union, Eastern Europe and the People's Republic of China
Affected Public: Businesses or other for-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sherri Fox, 395-7231

Agency: National Telecommunications and Information Administration
Title: Public Telecommunications Facilities Program Grant Monitoring
Form Numbers: Agency—SF-269 et al.; OMB—0660-0001
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 1,000 respondents; 8,500 reporting hours
Needs and Uses: The Public Broadcasting Amendments Act of 1981 authorizes grants to be awarded for the planning and construction of public telecommunications facilities. In order to monitor the use of grant funds and process payment requests, grantees are required to submit certain reports and forms periodically
Affected Public: State or local governments, nonprofit institutions, small businesses or organizations
Frequency: Monthly, quarterly, annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sherri Fox, 395-7231

Agency: National Telecommunications and Information Administration (NTIA)
Title: Public Telecommunications Facilities Program Grant Application
Form Numbers: Agency—SF 424; OMB—0660-0003
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 650 respondents; 100,750 reporting hours
Needs and Uses: The Public Broadcasting Amendments Act of 1981 authorizes grants to be awarded for the planning and construction of public telecommunications facilities. The information is used by NTIA in order to assess the proposals submitted and determine which applications should be funded
Affected Public: State or local governments, non-profit institutions, small businesses or organizations
Frequency: Annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sherri Fox, 395-7231

Agency: Office of the Secretary
Title: Personal History Statement for Possible Nomination to an Advisory Committee
Form Numbers: Agency—CD-555; OMB—0605-0003
Type of Request: Revision of a currently approved collection
Burden: 500 respondents; 125 reporting hours
Needs and Uses: The Federal Advisory Committee Act prescribes that the composition of an advisory committee be fairly balanced in terms of the points of view represented and the functions to be performed. The information collected is used to evaluate the qualifications of potential nominees to the Department's advisory committees
Affected Public: Individuals or households
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230. Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20203.

Dated: July 26, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-20314 Filed 7-30-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-301-004]

Fresh Cut Roses From Colombia; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that fresh cut roses (roses) from Colombia are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether a U.S. industry is materially injured, or is threatened with material injury, by imports of this merchandise. For ten of the eleven firms investigated, we have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. We have determined that one producer should be excluded from this determination. Those firms that are subject to suspension of liquidation and the firm excluded from this action are indicated in the "Suspension of Liquidation" section.

EFFECTIVE DATE: August 1, 1984.

FOR FURTHER INFORMATION CONTACT: John R. Brinkman or Paul Thran, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-5497.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that fresh cut roses from Colombia are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act) and that "critical circumstances" do not exist with respect to exports of fresh cut roses from Colombia. We have found *de minimis* margins for sales of roses produced by one of the firms investigated. The firm concerned is identified in the "Suspension of Liquidation" section of this notice.

We have found that the foreign market value of roses exceeded the United States price on 16.8 percent of the sales we compared. These margins ranged from 0.00 percent to 6.61 percent. The overall weighted-average margin on all roses sales compared is 2.86 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section.

Case History

On September 30, 1983, we received a petition filed by counsel for Roses Inc., the U.S. commercial rose growers' association. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petitioners alleged that imports of the subject merchandise from Colombia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports materially injure, or threaten material injury to, a United States industry. The petition also alleged that "critical circumstances" exist with respect to exports of fresh cut roses from Colombia.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on October 26, 1983 (48 FR 49530). The ITC found, on November 7, 1983, that there is a reasonable indication that imports of roses materially injure, or threaten material injury to, a United States industry.

The petitioners alleged that at least 26 Colombian companies produce the subject roses for export to the United States. However, we identified 11 producers and exporters which account for at least 60 percent of the subject roses sold for export to the United States. We presented questionnaires to counsel for the 11 Colombian rose growers. The companies are: Floramerica S.A.; Flores de los Andes; Flores Monte Verde, Ltda.; Las Flores Ltda.; Rosas de Colombia, Ltda.; Roselandia, Ltda.; Inversiones Penas Blancas; Agricola Benilda, Ltda; Roses Colombianas, Ltda; Ciba Geigy; and The Beall Company.

The requested responses within 30 days. At respondents' request, we allowed additional extensions of 17 and 3 days. However, the responses when received were not in full compliance with our regulations. Therefore, we used the petition as the best information available to us in making our preliminary determination. We preliminarily found dumping at a rate of 20.2 percent of the f.o.b. value of the imported merchandise (49 FR 9597). We preliminarily determined that "critical circumstances" did not exist.

On March 13, 1984, the respondents requested an extension of our final determination date of May 22, 1984. We granted an extension until July 27, 1984. At the request of the petitioners, we held a hearing on May 5, 1984, to allow the parties an opportunity to address the issues arising in this investigation.

Respondents did, with one exception, finally provide responses in compliance with the regulations. We reviewed these and, as required by law, traveled to Miami and to Bogota, Colombia to verify the correctness of the responses by examining the records of the companies under investigation. The response of one respondent, The Beall Company, did not provide specific U.S. sales information on a transaction-by-transaction basis as requested by our original and supplemental antidumping questionnaires and, therefore, was not verified. Accordingly, we have calculated the estimated dumping margin for The Beall Company based on the best information available to us. This is the highest dumping margin found among the other companies under investigation. The dumping margin for The Beall Company was not included in the weight averaging used to obtain a rate for "all other companies".

Scope of Investigation

The merchandise covered by this investigation is fresh cut roses. The two most commercially important types of fresh cut roses are hybrid teas and sweethearts, which are currently provided for under item number 192.18 of the *Tariff Schedules of the United States.*

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used both the purchase price and exporter's sales price of the subject merchandise to represent the United States price for sales by the Colombian producers.

Purchase price was used in those situations in which merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on either the f.o.b., c.i.f., or c.i.f. duty paid packed price to unrelated purchasers in the United States. We calculated this price by deducting, where appropriate, foreign inland freight, air freight, U.S. customs duties, and brokerage from the U.S. sales price.

We used exporters' sales price (ESP) to represent the United States price when the merchandise was sold to unrelated purchasers after importation into the United States. For these sales, we made deductions, where appropriate, for foreign inland freight, air freight, U.S. customs duties, brokerage, commissions, and selling expenses incurred in the United States.

Foreign Market Value

In accordance with section 773(e) of the Act, we calculated foreign market value based on constructed value. There were not sufficient home market or third country sales of such or similar merchandise for the purpose of comparison. We calculated the cost of materials, fabrication, general expenses, profit, and the cost of packing. The amounts added for general expenses were the actual amounts reflected in the companies' financial statements. These amounts were higher than the statutory minimum of 10 percent of the sum of material and fabrication costs. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses.

Petitioners' Comments

Comment 1

Petitioner alleged that respondents have a motive to sell roses at less than fair value because they allegedly may be smuggling cocaine into the United States in their rose shipments.

DOC Position

The intent or motive of a foreign producer to dump is irrelevant under the antidumping law (compare 15 U.S.C. 72, which does include an "intent" test). Rather, our concern is whether and to what extent respondents are selling at less than fair value. In this case, our analysis showed sales at less than fair value by 10 of the 11 companies we investigated. We have confirmed that the Treasury and Justice Departments, which have jurisdiction over drug smuggling matters, are currently investigating this situation.

Comment 2

Petitioner alleged that the Colombian rose growers had extraordinary security expenses.

DOC Position

Security costs are accounted for in the farms' financial statements and are included in the constructed value calculation.

Comment 3

Petitioner alleged that certain goverment-provided benefits reduce the Colombian rose growers' cost of production and that the Department should, therefore, value respondents' interest rates at the market rate rather than at the artificially low rate provided by the government.

DOC Position

We included actual costs, including the cost of any financing, in our cost of production calculation. The alleged subsidy programs mentioned are being investigated in the current countervailing duty section 751 review regarding cut flowers (roses included) from Colombia. Because it has not been determined whether programs are subsidies, we have not addressed the issue whether to adjust our calculations to account for them.

Comment 4

Petitioner argued that any allocations made in the investigation be made on the basis of sales value only.

DOC Position

We have examined the allocation of costs made by the respondents in this case. We have verified that these methods are the ones actually used in their accounts and that they are reasonable. Therefore, we have accepted them.

Comment 5

Petitioner argued that the Department must investigate all rose growers exporting to the United States and that we may not restrict coverage to the 11 companies investigated in this case. Petitioner asserts that investigating fewer than all exporters will present an inaccurate picture of the rose trade.

DOC Position

The Department's regulations authorize investigatioin of fewer than 100 percent of exporters, as long as at least 60 percent of exports to the United States are covered. The companies under investigation account for more than 60 percent of exports of fresh cut roses to the United States. In addition, the petitioner has provided no probative information showing that our limiting of the investigation presents an inaccurate picture of the rose trade. However, all Colombian rose growers, whether or not investigated, are covered by our final determination.

Comment 6

Petitioner alleged that respondents have not accurately presented their rates of wastage and the cost of providing free boxes of roses to U.S. customers. Petitioner used U.S. industry experience and letters from retailers to support these allegations.

DOC Positiion

We have investigated these issues and have found no evidence to substantiate petitioners' allegations that Colombian rose growers or U.S. importers of Colombian roses were providing free boxes to U.S. customers. U.S. importers did occasionally make no-charge replacement shipments for damaged merchandise but these shipments were verified a bona fide credits. Colombian growers do provide a limited number of free boxes in Colombia to charities, civic groups and employees. If these free boxes were export quality roses, they were included in our constructed value allocation of costs. Wastage figures were verified from Colombian growers' production records. Production classifiable as waste was not included in the constructed value allocation of costs.

Comment 7

Petitioner argued that respondents' methodologies in calculating depreciation were different for each company and were not in accordance with accepted accounting principles.

DOC Position

We have examined the methodology of each company for calculating depreciation. We found that the various methods were conservative in approach, not distortive, and in accord with Colombian accounting principles.

Comment 8

Petitioner argued that as no interest was charged by the growers in the sale of Colombian roses and as there were time lags between U.S. sales and payment, we should impute credit costs in our calculations.

DOC Position

Our calculations reflect the actual experience of the companies in producing and selling roses in the United States. We have verified that no interest was charged. Export financing

for roses was provided by long- and short-term Proexpo loans and we have taken these loan costs into account in calculating the growers' cost of production.

Comment 9

Petitioner argued that the respondents have provided inadequate public summaries of their information and have been untimely in submitting their recent, revised submissions. In addition, the supporting documents obtained at verification were not available to the petitioners.

DOC Position

The Department's regulations permit respondents to submit brief non-confidential summaries when respondents agree to release the confidential information under administrative protective order (APO). The respondents have satisfied this requirement. The additional submissions by the respondents were generally made at the behest of the Department and were in response to our requests for additional information or clarifications arising from analysis of the data submitted. All information not classified as verification exhibits was made available to petitioners under APO.

Respondents' Comments

Comment 1

Respondents argued that in figuring cost of production of roses for calculating constructed value, we should allocate costs over all production and not just over export quality roses.

DOC Position

In calculating constructed value, we will allocate costs over export quality roses only. We will treat non-export quality roses as by-products and will adjust costs to reflect the value received from the sale of the by-products. Our methodology reflects accepted accounting standards.

Comment 2

Respondents argued that we should treat Flores de los Andes, Flores Monte Verde, and Inversiones Penas Blancas as one entity since they are owned by the same persons and administration is handled by one service company, Grupo Andes.

DOC Position

We agree and have treated them as a single entity, Grupo Andes.

Comment 3

Respondents argued that a weighted-average U.S. price should be used for comparisons because of the perishable nature of the product and the daily fluctuations in prices.

DOC Position

Use of a weighted-average U.S. price would be a departure from our standard procedures. We have used weighted average prices only in unique circumstances, see e.g., *Fresh Winter Vegetables from Mexico* 45 FR 20152 (1980). That case involved an auction market in which approximately 2,000 vegetables growers sold on consigment to 50 distributors who had exclusive responsibility for negotiating prices. The producers had no effective control over production. The perishable nature of the vegetables prevented the producers from withholding the output of vegetables to avoid temporary oversupplies. As a result, these 2,000 growers had no real influence on the prices at which their products were sold in the United States in the course of a day, week, month, or season. Prices fluctuated drastically within a given day.

Here, respondents ask us to calculate a weighted-average U.S. price covering the entire period of investigation for each rose producer. Unlike the Fresh Winter Vegetables case, this case involves a small number of large, sophisticated, and profitable rose growers. These producers set the terms of the rose sales. These may include consigment, fixed price, or consignment with a minimum price, depending on their preference. Further, the producers can, to an extent, control their output by pinching back rosebuds, thereby avoiding oversupply during periods of low sales.

The Department is required to administer the antidumping law in a manner which takes into account the economic realities of a given case. While we do not dispute that roses are perishable and that their perishability may have some effect on their price, we view this case as distinguishable from the Vegetable case because of the rose producers' ability to control the terms of the sales so as to take advantage of market fluctuations, and their ability to control their production. We have, therefore, not calculated weighted-average U.S. prices, and instead have used our traditional methodology for calculating U.S. price. However, we have expanded our period of investigation to take into account the cyclical nature of the rose business, the nature of the product, and variation in price.

Comment 4

Respondents argued that we treat Inversiones Penas Blancas and Agricola Benilda as we did Ciba Geigy in taking into account low rose productivity during the start up or expansion of rose production.

DOC Position

Ciba Geigy was a completely new farm which began its initial rose growing operation during the period of investigation. Agricola Benilda and Inversiones Penas Blancas were on-going producers of roses, which were only adding capacity. Because Ciba Geigy's experience did not reflect that of a company in the ordinary course of rose growing, we normalized Ciba Geigy's production in accordance with section 773(e)(1)(A) of the Act.

Comment 5

Respondents argued that we should not use the 50/50 allocation given in the response for costs of production of roses and carnations for Rosas Colombianas. They suggest that we allocate cost based on the ratio of land use for each product.

DOC Position

The Department verified the cost of production using the 50/50 allocation. We found it to be conservative and reasonable. No new information we submitted on this issue prior to or during our verification. Therefore, we see no grounds to restate costs on a new basis.

Comment 6

Respondents argued that for certain companies the per unit values were overstated by inclusion of packing costs in the calculation of profit for determination constructed value.

DOC Position

We agree and our methodology has been adjusted to exclude the cost of packing for calculating profit for determining constructed value.

Comment 7

Respondent argued that in our verification report on Roselandia we overstated its ESP selling expenses for roses.

DOC Position

We agree and have made an adjustment in our calculations to reflect actual selling expenses.

Comment 8

Respondents argued that we should use, in calculating Floramerica's U.S. price, a guaranteed minimum contract price between it and its unrelated U.S. importer, rather than the actual prices from the consignment sales.

DOC Position

We disagree. We verified the terms of the contract between Floramerica and its importer and found that while the contract does guarantee a minimum return per unit on an annualized basis, this guarantee is secondary to the terms covering consignment sales. Additionally, during the period of investigation, the return on consignment sales exceeded the guaranteed minimum nullifying the minimum price arrangement.

Verification

In accordance with section 776(a) of the Act, we verified all data used in reaching this determination by using standard verification procedures, including on-site inspection of the growers' operations and examination of accounting records and selected documents containing relevant information.

Negative Determination of Critical Circumstances

Counsel for petitioner alleged that imports of fresh cut roses from Colombia present "critical circumstances." Under section 735(a)(3) of the Act (19 U.S.C. 1673d), critical circumstances exist when: (A)(i) There is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value; and (B) there have been massive imports of the merchandise under investigation over a relatively short period.

In determining whether there have been massive imports over a relatively short period, we considered the following factors: recent trends in import penetration levels; whether imports have surged recently; whether recent imports are significantly above the average calculated over the last several years (1981–1983); and whether the patterns of imports over that 3-year period may be explained by seasonal swings. Based upon our analysis of the information, we determine that imports of the products covered by this investigation do not appear massive over a relatively short period (September through December 1983).

For the reasons described above, we determine that critical circumstances do not exist with respect to fresh cut roses from Colombia.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on roses from Colombia entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we directed the United States Customs Service to suspend liquidation of all entries of the subject roses from Colombia, which are entered, or withdrawn from warehouse, for consumption, on or after March 14, 1984. Except for Rosas de Colombia, the Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins as of the publication of this notice in the **Federal Register** are as follows:

Firm	Weighted-average margin percentage
Las Flores, Ltda.	1.33
Floramerica S.A.	2.05
Roseiandia, Ltda.	2.19
Grupo Andes: Flores de los Andes; Flores Monte Verde, Ltda.; Inversiones Penas Blancas	3.10
Rosas Colombianas	3.56
Agricola Benilda Ltda.	5.14
Ciba Geigy	6.61
The Beall Company	6.61
All other companies	2.86

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: July 27, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-20352 Filed 7-31-84; 8:45 am]

BILLING CODE 3510-25-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Atlas Corporation, 53 Spark Street, Brockton, Massachusetts 02403, producer of footwear components, uranium, concrete and metal products (accepted June 11, 1984); (2) Lyn-Flex Industries, Inc., One Lehner Road, Saco, Maine 04072, producer of footwear components (accepted June 11, 1984); (3) Excell Manufacturing Company, 200 Chestnut Street, Providence, Rhode Island 02903, producer of jewelry chain (accepted June 11, 1984); (4) American Paper Box Company, Inc., 50 Brighton Street, Charlestown, Massachusetts 02129, producer of picture frames, easels and packaging (accepted June 11, 1984); (5) Fall River Knitting Mills, Inc., P.O. Box 298, Fall River, Massachusetts 02723, producer of sweaters and apparel tops for men, women, and children (accepted June 11, 1984); (6) Global Manufacturing, Inc., P.O. Box 3824, Little Rock, Arkansas 72203, producer of industrial vibrators and air blasters (accepted June 11, 1984); (7) Fabsco Corporation, 1745 West 124th Street, Calumet Park, Illinois 60643; producer of industrial fasteners (accepted June 11, 1984); (8) Lowry Manufacturing, Inc., 8630 Airport Highway, Holland, Ohio 43528, producer of molds and tools for making plastic articles (accepted June 11, 1984); (9) Accessories by Wolf, Inc., 1534 62nd Street, Brooklyn, New York 11219, producer of apparel belts and handbags (accepted June 11, 1984); (10) Naked Lite Studios, Inc., 36 A&B Carlough Road, Bohemia, New York 11716, producer of lamps, chandeliers, fixtures and other stained glass articles (accepted June 11, 1984); (11) Boss Manufacturing Company, 221 West First Street, Kewanee, Illinois 61443, producer of

gloves, footwear, adult jackets, sleeping bags, packs and tents (accepted June 11, 1984); (12) Hanna Nickel Smelting Company, P.O. Box 85, Riddle, Oregon 97469, producer of ferronickel (accepted June 12, 1984); (13) Gaylor Fashions, Inc., 109 8th Street, Passaic, New Jersey 07055, producer of women's jackets (accepted June 13, 1984); (14) Libman Broom Company, P.O. Box 66, Arcola, Illinois 61910–0066, producer of brooms, mops and wax applicators (accepted June 14, 1984); (15) Creative Tools, Inc., P.O. Box 4000, Bennington, Vermont 05201, producer of hand tools (accepted June 15, 1984); (16) Pennyroyal Industries, Inc., P.O. Box 421, Princeton, Kentucky 42445, producer of wood furniture parts, tables, pallets, plaques and frames (accepted June 15, 1984); (17) Western States Lighting Company, 4335 Vine Street, Denver, Colorado 80216, producer of lighting fixtures (accepted June 15, 1984); (18) Acrylic Designs, Inc., Route 100, South Londonderry, Vermont 05155, producer of giftware and housewares (accepted June 18, 1984); (19) Chemonics Industries, Inc., 4130 East Wood Street, Phoenix, Arizona 85040, producer of agricultural chemicals (accepted June 18, 1984); (20) FWD Corporation, 105 East 12th Street, Clintonville, Wisconsin 54929, producer of fire trucks, other trucks and apparatus (accepted June 21, 1984); (21) Destileria Serralles, Inc., P.O. Box 198, Mercedita, Puerto Rico 00715, producer of rum and other beverages and neutral spirits (accepted June 22, 1984); (22) Intraco, Inc., Highway 63S, Oskaloosa, Iowa, producer of livestock feeding equipment (accepted June 25, 1984); (23) Bogue Electric Manufacturing Company, 100 Pennsylvania Avenue, Paterson, New Jersey 07509, producer of electric generators (accepted June 27, 1984); (24) Transcience Industries, Inc., 179 Ludlow Street, Stamford, Connecticut 06902, producer of radio security equipment (accepted June 29, 1984); (25) Pacific Forest Products, Inc., P.O. Box 595, Haines, Alaska 99827, producer of softwood lumber (accepted July 3, 1984); (26) Anderson Mills, Inc., 354 Railroad Circle, Anderson, South Carolina 29621, producer of textile fabrics (accepted July 3, 1984); (27) Webbing Industries, Inc., Third and D Streets, Davisville, Rhode Island 02854, producer of fabrics (accepted July 6, 1984); (28) Kustom Kraft Company, P.O. Box Y, Edgemont, South Dakota 57735, producer of woodenware (accepted July 6, 1984); (29) David Morgan, Ltd., P.O. Box 5615, Asheville, North Carolina 28813, producer of wood furniture (accepted July 9, 1984); (30) Kentucky Machine & Tool Company, 3107 Millers Lane, Louisville, Kentucky 40216, producer of industrial machines (accepted July 9, 1984); (31) J. A. Firsching & Son, Inc., 421–423 Broad Street, Utica, New York 13501, producer of textile machinery (accepted July 10, 1984); (32) Graham Steel Corporation, 13210 N.E. 124th Street, Kirkland, Washington 98033, producer of fabricated steel (accepted July 10, 1984); (33) Hine/Snowbridge, Inc., P.O. Box 4059, Boulder, Colorado 80306, producer of bicycle and back packs, camera and other bags (accepted July 10, 1984); (34) Avon Belt and Trimming Company, Inc., 511 West 33rd Street, New York, New York 10001, producer of apparel belts (accepted July 10, 1984); (35) Agricultural Aviation Engineering Company, 1333 E. Patrick Lane, Las Vegas, Nevada 89119, producer of spraying equipment (accepted July 10, 1984); (36) Spatz Corporation, 4131 Glencoe Avenue, Venice, California 90291, producer of brushes and cosmetic cases and applicators (accepted July 10, 1984); (37) Atco Manufacturing Company, Inc., 461 Walnut Street, Napa, California 94559, producer of livestock watering equipment (accepted July 10, 1984); (38) Pierre Bouchet, Inc., 37 W. 39th Street, New York, New York 10018, producer of women's blouses (accepted July 11, 1984); (39) Trojan Metal Fabrication, Inc., 151 Cortland Street, Lindenhurst, New York 11575, producer of patio furniture (accepted July 11, 1984); (40) Mullin-DeCost, Inc., 318 Manley Street, West Bridgewater, Massachusetts 02379, producer of shoe patterns (accepted July 11, 1984); (41) Master Chemical Company, Inc., 27–29 Bradston Street, Boston, Massachusetts 02118, producer of chemicals (accepted July 11, 1984); (42) Skyline Industries, Inc., 4909 N.E. Parkway, Fort Worth, Texas 76101, producer of fishing rods and parts for aircraft (accepted July 11, 1984); (43) Hartstone, Inc., P.O. Box 2626, Zanesville, Ohio 43701, producer of ceramic dinnerware and kitchenware (accepted July 11, 1984); (44) Sarama Lighting Industries, Inc., 30–96 Front Street, Fall River, Massachusetts 02722, producer of lighting fixtures (accepted July 11, 1984); (45) Sudenga Industries, Inc., P.O. Box 8, George, Iowa 51237, producer of augers and other materials handling equipment (accepted July 11, 1984); (46) Dazor Manufacturing Corporation, 4455–99 Duncan Avenue, St. Louis, Missouri 63110, producer of lamps and brackets (accepted July 11, 1984); (47) Transformer Manufacturers, Inc., 7051 West Wilson Avenue, Chicago, Illinois 60656, producer of electrical transformers (accepted July 11, 1984); (48) Sterling Sheet Metal Company, Inc., 284 Seigel Street, Brooklyn, New York 11206, producer of housewares and restaurant supplies (accepted July 12, 1984); and (49) Essex Castings, Inc., P.O. Box 348, Columbus, Indiana 47202, producer of iron castings (accepted July 13, 1984).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouse do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 84–20350 Filed 7–31–84; 8:45 am]

BILLING CODE 3510–DR–M

National Oceanic and Atmospheric Administration

Public Hearing on the North Carolina National Estuarine Sanctuary—Masonboro Island Component: Draft Environmental Impact Statement and Draft Management Plan

AGENCY: Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Public Hearing Notice.

SUMMARY: Notice is hereby given that the Sanctuary Programs Division (SPD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement and Draft Management Plan (DEIS/DMP) prepared on the proposed designation and addition of the Masonboro Island Component to the North Carolina National Estuarine Sanctuary.

The hearing will be held on Wednesday, August 22, 1984 at 7:00 P.M. at the University of North Carolina-Wilmington, Kenan Auditorium, 601 South College Road, Wilmington, North Carolina 28404–3297.

The views of interested persons and organizations on the adequacy of the impact statement and management plan, and on the proposed designation and addition of the Masonboro Island Component to the North Carolina National Estuarine Sanctuary are solicited, and may be expressed orally and/or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of five (5) minutes. The time allotment may be extended before the hearing when the number of speakers can be determined. A transcript of the hearing will be prepared. All comments received at the hearing and those submitted in writing will be considered in the preparation of the Final Environmental Impact Statement (FEIS).

The comment period for this Draft Environmental Impact Statement and draft Management Plan will end on Monday, September 3, 1984. All written comments received by this deadline will be included in the FEIS.

Copies of the DEIS/DMP may be obtained from the Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235 (Telephone: 202/634–4236).

(Federal Domestic Assistance Catalog No. 11.420 Coastal Zone Management Estuarine Sanctuaries)

Dated: July 27, 1984.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 84–20272 Filed 7–31–84; 8:45 am]

BILLING CODE 3510–08–M

Public Hearing on the Proposed Waquoit Bay National Estuarine Sanctuary: Draft Environmental Impact Statement and Draft Management Plan

AGENCY: Sanctuary Programs Division, Office of Ocean and Costal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Public Hearing Notice.

SUMMARY: Notice is hereby given that the Sanctuary Programs Division (SPD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), 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 Draft Management Plan (DEIS/DMP) prepared on the proposed designation of a Waquoit Bay National Estuarine Sanctuary.

The hearing will be held on Wednesday, August 22, 1984 at 7:00 P.M. at Morse Pond School Auditorium, Jones Road, Falmouth, Massachusetts.

The views of interested persons and organizations on the adequacy of the impact statement and management plan, and on the proposed designation of a Waquoit Bay National Esturaine Sanctuary are solicited, and may be expressed orally and/or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of five (5) minutes. The time allotment may be extended before the hearing when the number of speakers can be determined. A transcript of the hearing will be prepared. All comments received at the hearing and those submitted in writing, will be considered during the preparation of the Final Environmental Impact Statement (FEIS).

The comment period for this Draft Environmental Impact Statement and Draft Management Plan will end on September 3, 1984. All written comments received by this deadline will be included in the FEIS.

Copies of the DEIS/DMP may be obtained from the Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235 (Telephone: 202/634–4236).

(Federal Domestic Assistance Catalog No. 11.420 Coastal Zone Management Estuarine Sanctuaries)

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 84–20271 Filed 7–31–84; 8:45 am]

BILLING CODE 3510–08–M

[Modification No. 1 to Permit No. 418]

Dr. Daniel P. Costa; Permit

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals, Scientific Research Permit No. 418 issued to Dr. Daniel P. Costa, Joseph M. Long Marine Laboratory, University of California, Santa Cruz, California 95064, on June 7, 1983 (48 FR 27121), is modified to allow the taking of an additional 50 adult female Steller sea lions by paint marking.

Accordingly, Section A–2 of Permit No. 418 is deleted and replaced by:

"A–2. Up to seventy-five (75) female Steller sea lions may be marked." This modification becomes effective upon publication in the **Federal Register.**

The Permit, as modified, is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 26, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–20286 Filed 7–31–84; 8:45 am]

BILLING CODE 3510–22–M

Dr. Donald B. Siniff; Issuance of Permit

On June 19, 1984, notice was published in the **Federal Register** (49 FR 25022), that an application had been filed with the National Marine Fisheries Service by Dr. Donald B. Siniff, Department of Ecology and Behavioral Biology, 108 Zoology Building, University of Minnesota, Minneapolis, Minnesota 55455, for a permit to conduct studies involving six species of seals in Antarctica for the purpose of scientific research.

Notice is hereby given that on July 25, 1984, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries

Service issued a Scientific Research Permit for the taking of Weddell seals and importation of specimens to Dr. Donald B. Siniff, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C., and

Director, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: July 26, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-20287 Filed 7-31-84; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 84-1]

Honeywell, Inc., a Corporation; Publication of an Amended Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of an Amended Complaint under the Consumer Product Safety Act.

SUMMARY: Under Provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, FR 29206), the Consumer Product Safety Commission must publish in the **Federal Register** Amended Complaints which it issues under the Consumer Product Safety Act. Printed below is an Amended Complaint in the matter of Honeywell, Inc., a corporation.

Dated: July 26, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

SUPPLEMENTARY INFORMATION:

In the matter of Honeywell, Inc., a corporation; CPSC Docket No. 84-1.

Amended Complaint

Nature of the Proceedings

1. This is an adjudicative proceeding for public notice and remedial action for a substantial product hazard or hazards pursuant to section 15 of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2064. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission, 16 CFR Part 1025 (1983).

Jurisdiction

2. This proceeding is instituted pursuant to section 15 of the CPSA, 15 U.S.C. 2064.

Respondent

3. Honeywell, Inc. (Honeywell or Respondent) is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices at Honeywell Plaza, 2701 Fourth Avenue South, Minneapolis, Minn. 55408

4. Honeywell manufactured certain combination gas controls (hereinafter, "control" or "controls"), identified further below, which are components of water heaters produced or distributed for (a) sale to consumers for use in or around their permanent or temporary households or residences, schools, in recreation or otherwise; or (b) for the personal use, consumption, or enjoyment of consumers in or around their permanent or temporary households or residences, schools, in recreation, or otherwise. These water heaters are "consumer" products within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C.2052(a)(1). These controls are component parts of these water heaters. The control is, therefore, a "consumer product" within the meaning of this section.

5. Honeywell manufactured and sold this control nationwide for installation in water heaters in households, residences, schools, or recreational buildings for use by consumers. Honeywell is, therefore, a "manufacturer" of a "consumer product" which is "distributed in commerce," as these terms are defined in section 3(a)(1), (4), (8), (11) and (12) of the CPSA, 15 U.S.C. 2051(a) (1), (4), (8), (11) and (12).

The Consumer Product

6. The control is Honeywell's Model V5130. It is a component part of various models of water heaters.

7. The control is a device whose function it is to regulate the amount of gas needed by the hot water heater to heat water in residences, schools, or elsewhere.

8. The control is also intended to perform a vital safety function; that is, it should prevent unburned gas from flowing into the water heater if the pilot light becomes extinguished.

9. From 1958 through 1976, Honeywell produced approximately 9 million of these controls.

10. The control is designed to be used as a component part of water heaters fueled by both natural or liquefied petroleum (hereafter "LP") gas. Those controls used in water heaters fueled by LP gas are the subject of this action.

The Substantial Product Hazard

11. In order to light the pilot light of the water heater, the user turns the gas cock knob on the control to the "PILOT" position. Once in this position, the user can then push the knob down, allowing gas to flow to the pilot burner only (not the main burner), and can then ignite the pilot burner with a match. Once it is lit, the knob must be held fully down for 60 seconds. This is done in order to keep the safety valve open so that gas will continue to flow to the pilot flame, allowing it to heat a thermocouple device in the flame.

12. Once it is sufficiently heated, the thermocouple (which transforms heat energy from the pilot flame into electrical energy) generates electricity that flows through an electromagnet which mechanically holds the safety valve open.

13. The user may then release the knob, allowing it to spring upward. Once it reaches this upward position, the user can now turn it to the "ON" setting. In this position, gas can flow constantly to the pilot through the open safety valve and the main burner, as needed, when the water heater thermostat calls for heat.

14. So long as the pilot flame remains lit, the safety valve should remain open as a result of the electricity generated by the thermocouple.

15. If the pilot light goes out, the loss of heat is sensed by the thermocouple; no electricity is generated to hold the safety valve open; and the valve should close automatically.

16. If the safety valve fails to close completely after the pilot light goes out, the pilot burner will leak gas continuously; and the main burner will begin to leak gas when the appliance thermostat calls for heat.

17. The control employs a plastic knob to turn the gas cock by means of plastic lugs keyed into slots in the metal gas cock.

18. If, during the process of turning the knob from the "PILOT" to the "ON" position, the knob should become stuck down in such a way as to prevent the safety valve from automatically closing (as it is designed to do should the pilot flame become extinguished), when the thermostat calls for gas to heat the water substantial quantities of unburned gas will be released through the pilot and main burners.

19. The resulting accumulation of unburned gas creates a serious explosion and/or fire hazard.

20. One way in which the knob can become stuck down in a depressed position, as described in paragraph 18,

can occur when the plastic lugs keyed into the gas cock become worn or fractured. This wear or fracture permits the knob to become misoriented with respect to the gas cock. That is, the actual and indicated positions of the gas cock to not correspond so that gas can still flow to the pilot and main burner when the knob appears to be in the "OFF" position.

21. As a consequence of this knob reversal, the safety stop mechanism is defeated. The safety stop consists of a metal ridge adjacent to the gas cock which interacts with a flange on the knob and prevents depression of the gas cock knob while it is in the "ON" position.

22. If the knob is in a misoriented position, the flange may be directed away from the raised ridge and the knob can be pushed down, opening the safety valve. If the knob sticks in the depressed position the pilot-flame safety system is defeated.

23. Another way in which the knob can become stuck down in a depressed position, as described in paragraph 18, can occur when the outer edges of the flanges on the knob, opposite the "PILOT" position, wear or fracture.

24. When the edges of the rear flanges of the knob wear or fracture, it is possible for the flange to bypass the safety stop on the rear of the control body while the knob and gas cock is being turned from the "PILOT" to the "ON" position. If the knob becomes stuck in a depressed position with the gas cock between the "PILOT" and "ON" positions, substantial amounts of unburned gas can be released if the pilot extinguishes.

25. The Honeywell operating instructions and product information accompanying the component control to the water heater manufacturers give no warning of the serious hazard created by a gas cock knob that becomes stuck while depressed, as described in paragraphs 17 through 24.

26. Most, if not all, of the water heater manufacturers either pass on directly or adapt Honeywell's operating instructions and product information into their own instructions.

27. As a result, the consumer receives no warning of the serious hazard created by a V5130 gas cock knob becoming stuck while depressed as described in paragraphs 17 through 24.

28. It is estimated that approximately 10% of Honeywell's original 9 million controls were installed in LP gas fired water heaters.

29. LP gas is heavier than air.

30. Should unburned LP gas flow into a water heater when the pilot light is extinguished, the gas will accumulate and "pool" on the floor of the surrounding area and will not, of itself, vent up through the water heater's flue.

31. Assuming a sufficient amount of LP gas remains in the storage tank, the leaking LP gas will continue to accumulate and eventually reach a volatile fuel to air mixture.

32. Should an ignition source (such as an electric light being switched on, a nearby appliance cycling on, or a match or lighter being lit in the volatile fuel/air mixture) be present or subsequently introduced into this volatile fuel to air mixture, a violent explosion and/or fire will occur.

33. The Commission staff is aware of at least 64 reported incidents of gas leaks of V5130 control valves which resulted in a fire and/or explosion.

34. The 64 incidents resulted in 16 deaths and approximately 35 other incidents of serious personal injury.

35. The conditions described in paragraphs 17 through 24 were the primary cause in some, if not all, of these incidents.

36. The conditions described in paragraphs 17 through 24 concerning the knobs on these controls renders the controls defective under section 15 U.S.C. 2064.

37. Because the product defect described in paragraphs 17–24 is present in every one of the 900,000 control valves originally manufactured, because the product defect may have caused 16 deaths and approximately 35 other instances of painful and permanently disfiguring burns, and because the product defect has the potential to cause future incidents of deaths and permanent injuries, it creates a substantial risk of injury to the public and thereby constitutes a substantial product hazard within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

Relief Sought

Wherefore, in the public interest, Complaint Counsel requests that the Commission, after affording interested persons an opportunity for a hearing:

A. Determine that the V5130 combination gas control manufactured by Honeywell from 1958–1976 and used in connection with water heaters fueled by LP gas presents a substantial product hazard within the meaning of section 15(a)(2), of the CPSA, 15 U.S.C. 2064(a)(2), and that notification under section 15(c) of the CPSA, 15 U.S.C. 2064(c), is required to adequately protect the public, and

1. Order Honeywell to give public notice of the substantial product hazard and defect in the combination gas controls and its hazards by:

(a) Mailing notices directly to its customers, the makers and users of the water heaters, which utilized the combination control, directing them to contact the current users of the water heaters containing the controls;

(b) Mailing notices directly to utility companies and liquefied petroleum distributors, asking them to either contact current users of the controls directly or provide the list of such customers to Honeywell for contact;

(c) Offering a plan to reimburse these firms for their expenses incurred in complying with Paragraph A1 (b) above, and also offering an additional monetary incentive necessary to encourage their cooperation;

(d) Directory notifying all consumers with LP gas fired heating equipment that may use a subject control;

(e) Placing appropriate advertisements in the largest circulation newspapers in the country and in all daily or weekly newspapers targeted to rural areas and users of LP fueled appliances;

(f) Placing paid television and radio advertisements on national network and local stations during prime audience time:

(g) Placing appropriate advertisements in Parade, TV Guide, Readers' Digest, Family Circle, Family Weekly, magazines of general circulation as well as in other appropriate publications having that market defined as LP gas users. The advertisements shall run for a period of time deemed necessary to adequately inform such readers;

(h) Preparing a joint Commission & Honeywell press release; and

(i) Sending safety notices to all state consumer affiars offices or other appropriate state informational services for their dissemination.

2. Require that the form and content of each notice shall be approved by the Commission staff.

B. Determine that the V5130 model of gas combination controls used in connection with water heaters fueled by LP gas present a substantial product hazard within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2), and that action under section 15(d) of the CPSA, 15 U.S.C. 2064(d), is in the public interest and:

1. Order Honeywell either to refund the purchase price of the gas combination controls, to replace the controls with like or equivalent products that do not contain a defect, or to repair the controls so that they do not present a substantial product hazard to the public;

2. Order Honeywell to submit, within a reasonable time, for Commission

approval, a plan implemeting the action required by paragraph B 1.

C. Order Honeywell to reimburse any consumer who avails himself of any remedy provided as a result of this proceeding for any reasonable and foreseeable expenses incurred in availing himself of that remedy, in accordance with section 15(e) of the CPSA, 15 U.S.C. 2064(e).

(D) Order Honeywell to keep records:

1. Of the notice required to be given in paragraph A:

2. Of the number of refunds and the amount of each refund made; of the number of replacements and the kind of each replacement made; and of the number of repairs and the kind of each repairs made under paragraph B;

3. Of the number of reimbursements and the amount of each reimbursement made for reasonable and necessary expenses of consumers under paragraph C.

4. Of the number of reimbursements, the amount of each reimbursement, and the reason for each reimbursement made to Honeywell's customers under Paragraph A 1 (c).

E. Order Honeywell to provide copies of the records specified in paragraph D and/or extracts of information from them, as well as copies of advertising used to give public notice, to the Commission staff at their request.

F. Order Honeywell to file reports with the Commission staff containing information specified in paragraphs D and other information that may be requested to determine compliance with any order issued in this proceeding at 30-day intervals until the actions required in paragraphs A through E are completed. The format of such reports shall be submitted and be acceptable to the Commission staff.

G. Order Honeywell to notify the Commission at least 30 days prior to any change in its business (such as incorporation, dissolution, assignment, sale, receivership or declaration of bankruptcy) that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change that might affect compliance obligations under any Commission order for a period of three years after issuance of the order or orders in this proceeding or until such time as the corrective action plan is deemed by the staff and Commission to be complete.

H. Grant such other and further relief as the Commission deems necessary to protect public health and safety and to implement the CPSA.

Issued as authorized by the Consumer Product Safety Commission.

Dated: July 23, 1984.

David Schmeltzer,

Associate Executive Director for Compliance and Administrative Litigation

[FR Doc. 84-20273 Filed 7-31-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Military Traffic Management Command; Personal Property Traffic Management (4500.34-R)

To inform the household goods carrier industry of a change to DoD 4500.34-R, paragraph 6001e(1). This change has been agreed to by the military servaices and the carriers associations at the military/industry symposium on May 3, 1984, and will be effective 60 days from the date of this notice.

Carriers are advised that under this change if an agent other than the booking agent is disqualified, no action will be taken against the carrier concerned, however, the carrier would have to update their LOI or correct the deficiency within 30 days.

The subject paragraph is changed to read as follows, italics is provided to highlight changes:

Paragraph 6001e(1).

e. Carrier/Agent Relationship.

(1) Multiple Agents: A carrier's Letter of Intent may list as many local agents as the carrier desires. In the interest of maintaining good relations as well as providing sufficient SIT capability, *the PPSO with inspect the facilities of all agents listed on the LOI.* A carrier *with multiple agents will* designate separate agents for booking purposes and as a single point of contact *for domestic household goods and unaccompanied baggage; or the carrier may designate a single agent for all codes of service.* When more than one agent is listed in the Letter of Intent, the carrier will indicate a specific agent to serve as a booking agent and for contact purposes, in which case the equitable distribution of traffic among the agents listed is the sole responsibility of the carrier. When the corporate structure of a carrier prohibits the designation of a specific agent for contact purposes, *the PPSO will consider the first agent listed thereon as the booking agent. When multiple agents are listed on the LOI, and the booking agent is disqualified, the carrier will be placed in nonuse until the agent deficiency has been corrected or the agent removed from the LOI.*

Inquiries concerning this change should be addressed to Military Traffic Management Command, ATTN: MT-PPQ, Washington, DC 20315.

Dated: July 24, 1984.

Nathan R. Berkley,

Colonel, GS, Director of Personal Property.

[FR Doc. 84-20388 Filed 7-31-84; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army

Privacy Act of 1974; Amendments to Notices for Systems of Records

Correction

In FR Doc. 84-19506 beginning on page 29812 in the issue of Tuesday, July 24, 1984, make the following corrections: On page 29818, third column, the System Identification Number now reading "A0303.06DACA" should read "A0302.06DACA"; and on page 29820, second column, the System Identification Number now reading "A0306.220DACA" should read "A0306.200DACA".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Announcement of Availability of Final Environmental Impact Statement, Remedial Actions at the Former Vitro Chemical Company Site, South Salt Lake, Salt Lake County, Utah

AGENCY: Department of Energy.

ACTION: Notice of availability of final environmental Impact statement.

SUMMARY: The Department of Energy (DOE) has prepared a final Environmental Impact Statement (DOE/EIS-0099-F) on the remedial actions at the inactive uranium milling site (Vitro site) located in South Salt Like, Salt Lake County, Utah. The EIS is being made available for public review; the public review period will close 30 days after publication of the notice of availability of the EIS. Following completion of the public review period, DOE will issue its Record of Decision.

Background

On November 8, 1978, the Uranium Mill Tailings Radiation Control Act (UMTRCA), Pub. L. 95-604, was enacted in order to address a Congressional finding that uranium mill tailings located at inactive processing sites may pose a potential health hazard to the public. On November 8, 1979, DOE designated 24 inactive processing sites for remedial action under Title I of UMTRCA, including the inactive uranium mill

tailings site at South Salt Lake, Utah (44 FR 74892).

UMTRCA charges the Environmental Protection Agency (EPA) with the responsibility for promulgating remedial action standards for inactive mill sites. The purpose of these standards is to protect the public health and safety and the environment from radiological and nonradiological hazards associated with residual radioactive materials at the sites. The final standards (40 CFR Part 192) were promulgated on January 5, 1983, and became effective on March 7, 1983. The DOE has proposed a plan of remedial action that will satisfy the EPA standards.

Under UMTRCA, the DOE and the State of Utah entered into a cooperative agreement effective January 30, 1981, for remedial action at the Vitro site. Under the agreement, the State of Utah must concur with the remedial action plan to be developed for the site. The DOE and the State of Utah will share the costs of remedial action.

Project Description

The Vitro site is located approximately four miles south-southwest of the center of Salt Lake City. The former Vitro mill was used to process uranium ore at the South Salt Lake site from 1951 until 1964 by Vitro Corporation of America, Inc., and was then converted to produce vanadium. Production ceased in 1968, and the plant was dismantled in 1970. The site has changed ownership several times and is now owned by the Central Valley Water Reclamation Facility Board, which operates a sewage plant on adjacent property north of the central portion of the Vitro site.

An ore-processing mill and ore storage and transportation facilities were located on eight acres on the eastern portion of the site. The buildings are no longer standing. Tailings occupy the remainder of the site in piles up to sixteen feet in height. Tailings are the residue of the uranium ore processing operations and are in the form of finely ground rock, much like sand. The piles cover approximately 120 acres within a designated site of about 128 acres and contain about 3 million tons of tailings and contaminated materials. The total amount of contaminated materials including the tailings, soils beneth the tailings, and material at the estimted 100 vacinity properties (offsite locatioins) is estimated to be 3.4 million tons.

Preferred Alternative

The preferred alternative (Alternative 3) is to relocate the tailings and other contaminated materials to the South Clive site in Tooele County, Utah, about 85 miles west of the Vitro site. The tailings and other contaminated material at the Vitro site would be excavated and transported to the South Clive site, along with contaminated materials from the vicinity properties. The tailings and other materials would be placed in an embankment constructed largely above grade and compacted. The tailings and other material would be recontoured to nearly level on top (2 percent slope) and would have 5:1 side slopes (20 percent). A five-foot thick cover would be constructed over the pile to inhibit radon emanation and water infiltration to assure compliance with EPA standards. A layer of pit run rock (2 feet thick) would be added to protect the site from erosional forces, penetration by plants and animals, and inadvertent human intrusion.

Two alternatives to the preferred alternative were analyzed in the EIS. These were: (1) no action, and (2) stabilization of the waste in place at the Vitro site.

Single copies of the EIS are Available from: James A. Morley, UNTRA Project Manager, U.S. Department of Energy, UNTRA Project Office, 5301 Central Avenue NE., Suite 1700, Albuquerque, New Mexico 87108, (505) 844–3941.

Comments: Comments on the EIS may be sent to James A. Morley at the above address. Comments received within 30 days of this notice will be considered.

FOR FURTHER INFORMATION CONTACT: Robert J. Stern, Director, Office of Environmental Compliance, PE–25, Office of the Assistant Secretary for Policy, Safety, and Environment, Room 4G–Forrestal Building U.S. Department of Energy, Washington, D.C. 20585.

Issued at Washington, D.C., July 26, 1984.

Jan W. Mares,

Assistant Secretary for Policy, safety, and Environment.

[FR Doc. 84–20289 Filed 7–31–84; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, SPR Facilities Task Group of the Committee on the Strategic Petroleum Reserve; Meeting

Notice is hereby given that the SPR Facilities Task Group of the Committee on the Strategic Petroleum Reserve will meet in August 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 the Strategic Petroleum Reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The SPR Facilities Task Group will hold its fourth meeting on Tuesday, Auigust 7, 1984, starting at 9:30 a.m., in the Kittyhawk B Conference Room of the Sheraton Airport-Memphis, 2411 Winchester Road, Memphis, Tennessee.

The tentative agenda for the SPR Facilities Task Group meeting follows:

1. Opening remarks by the Chairman and Government Co-Chairman.
2. Discuss the Task Group draft report and 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 SPR Facilities 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 SPR Facilities 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 Gerald 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 July 24, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84–20283 Filed 7–31–84; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Coordinating Subcommittee of the Committee on the Strategic Petroleum Reserve; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on the Strategic Petroleum Reserve will meet in August 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 the Strategic Petroleum Reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Coordinating Subcommittee will hold its fourth meeting on Wednesday, August 1, 1984, starting at 9:30 a.m., in the Polk Room of the Memphis Airport Hilton, 2240 Democrat Road, Memphis, Tennessee.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Co-Chairman.
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, 301/353-3032, 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, S.W., 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 July 24, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84-20264 Filed 7-31-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Kalama Chemical Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Kalama Chemical Inc. (Kalama) as a final order of DOE.

EFFECTIVE DATE: July 25, 1984.

FOR FURTHER INFORMATION CONTACT: James N. Solit, Office of Special Counsel, Economic Regulatory Administration, Room 5B-151, 1000 Independence Avenue SW. Washington, D.C. 20585 (202/252-6500).

SUPPLEMENTARY INFORMATION: On May 31, 1984, 49 FR 22681 the ERA published a notice in the **Federal Register** that it had executed a Consent Order with Kalama on March 12, 1984, which would not become effective sooner than 30 days after publication of that notice. Interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. The proposed Consent Order stated that Kalama would pay the DOE a total of $1,000,000 plus installment interest in 19 quarterly payments which would be deposited in a suitable account for ultimate distribution by the DOE.

Comments were received from two parties, one from the State of Texas and one on behalf of several states (Arkansas, Delaware, Iowa, Kansas, Louisiana, North Dakota, Rhode Island and West Virginia). Neither of the comments objected to the Consent Order but rather focused on the proposed distribution of funds (if any) remaining after payment to identifiable injured parties. The commenters advocated that any remaining funds be distributed on a pro-rata basis to various states to finance energy related projects. In consideration of these comments, ERA has determined that it will petition DOE's Office of Hearings and Appeals to implement special refund procedures pursuant to 10 CFR Part 205, Subpart V.

Having considered all comments submitted, DOE has determined that the proposed Consent Order with Kalama should be made final without modification. The Consent Order was adopted as a final order on July 25, 1984.

Issued in Washington, D.C. on the 25th day of July, 1984

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 84-20266 Filed 7-31-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Remedial Order to Murphy Oil Corporation and Opportunity for Objection

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: Murphy Oil Corporation ("Murphy") of El Dorado, Arkansas is a major refiner engaged in the production and refining of crude oil and the marketing of petroleum products. Murphy was therefore subject to the Mandatory Petroleum Price and Allocation Regulations which were in effect through January 27, 1981.

The Office of Special Counsel ("OSC") of the Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") conducted an audit of Murphy and determined that the firm violated certain of these regulations during the period August 1974 through December 1978.

Pursuant to 10 CFR 205.192(c), ERA hereby gives notice of a Proposed Remedial Order ("PRO") issued to Murphy and of an opportunity for objection thereto.

FOR FURTHER INFORMATION CONTACT: Emily E. Sommers, Associate Solicitor, Economic Regulatory Administration, Department of Energy, Room 3H-055, 1000 Independence Avenue, SW., Washington, D.C. 20585. (202) 252-1706.

Copies of the PRO with confidential information deleted may be obtained from James R. Solit, Department of Energy, Economic Regulatory Administration, Room 5B-151, 1000 Independence Avenue, SW., Washington, D.C. 20585, or by calling (202) 252-6500.

SUPPLEMENTARY INFORMATION:

I. Issuance of Proposed Remedial Order

During the period August 1973 through December 1978, Murphy improperly calculated its increased non-product costs by including in its reported non-product costs the costs attributable to the refining of crude oil for other entities, and by using a per-unit cost instead of the total dollar cost of marketing covered products.

As a result of its audit, ERA determined that Murphy claimed non-product cost increases of $2,010,587 in excess of those permitted by 10 CFR Part 212. As a remedy for this violation, the PRO requires Murphy to recalculate its reported non-product costs excluding the costs attributable to the refining of crude oil for other entities, and to recalculate its reported marketing costs using the total dollar cost as opposed to a per-unit cost for the period August

1973 to January 28, 1981. Murphy will then recalculate its total costs available for recovery for the period of price controls and refund any resulting overcharges, plus interest.

II. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the above-described PRO with DOE's Office of Hearings and Appeals within 15 days after the date of this publication. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the PRO. If a Notice of Objection is not filed in accordance with § 205.193, the PRO may be issued as a final Remedial Order.

All Notices of Objection, Statements of Objections, Responses, Replies, Motions, and other documents required to be filed with the Office of Hearings and Appeals shall be sent to: Office of Hearings and Appeals, Department of Energy, Room 6F–055, 1000 Independence Avenue, SW., Washington, D.C. 20585. No confidential information shall be included in a Notice of Objection.

Copies of all Notices of Objection, Statements of Objections and all other pleadings filed by an aggrieved person or other participant shall be served on: Emily E. Sommers, Associate Solicitor, Economic Regulatory Administration, Department of Energy, Room 3H–055, 100 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., July 18, 1984.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 84–20287 Filed 7–31–84; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Remedial Order to Murphy Oil Corporation and Opportunity of Objection

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: Murphy Oil Corporation ("Murphy") of El Dorado, Arkansas is a major refiner engaged in the production and refining of crude oil and the marketing of petroleum products. Murphy was therefore subject to the Mandatory Petroleum Price and Allocation Regulations which were in effect through January 27, 1981.

The Office of Special Counsel ("OSC") of the Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") conducted an audit of Murphy and determined that the firm violated certain of these regulations during the period August 1974 through December 1978.

Pursuant to 10 CFR 205.192(c), ERA hereby gives notice of a Proposed Remedial Order ("PRO") issued to Murphy and of an opportunity for objection thereto.

FOR FURTHER INFORMATION CONTACT: Ellyn S. Roth, Assistant Solicitor, Economic Regulatory Administration, Department of Energy, Room 3H–055, 1000 Independence Avenue, S.W., Washington, D.C. 20585. (202) 252–4275.

Copies of the PRO with confidential information deleted may be obtained from James R. Solit, Department of Energy, Economic Regulatory Administration, Room 5B–151, 1000 Independence Avenue, S.W., Washington, D.C. 20585, or by calling (202) 252–6500.

SUPPLEMENTARY INFORMATION:

I. Issuance of Proposed Remedial Order

During the period August 1973 through December 1978, Murphy improperly calculated its increased crude oil costs by failing to include all fee-free license revenues as reductions to crude oil costs.

As a result of its audit, ERA determined that Murphy claimed crude oil cost increases of $4,001,091 in excess of those permitted by 10 CFR Part 212. As a remedy for this violation, the PRO requires Murphy to recalculate its crude oil costs for the period August 1973 to January 28, 1981, including all fee-free license revenues as reductions to the cost of crude oil in each month in which the revenues were received by Murphy or, alternatively, in each month in which the revenues were recorded as income by Murphy. Murphy will then recalculate its total costs available for recovery for the same period and refund any resulting overcharges, plue interest.

II. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the above-described PRO with DOE's Office of Hearings and Appeals within 15 days after the date of this publication. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the PRO. If a Notice of Objection is not filed in accordance with § 205.193, the PRO may be issued as a final Remedial Order.

All Notices of Objection, Statements of Objections, Responses, Replies, Motions, and other documents required to be filed with the Office of Hearings and Appeals shall be sent to: Office of Hearings and Appeals, Department of Energy, Room 6F–055, 1000 Independence Avenue, S.W., Washington, D.C. 20585. No confidential information shall be included in a Notice of Objection.

Copies of all Notices of Objection, Statements of Objections and all other pleadings filed by an aggrieved person or other participant shall be served on: Ellyn S. Roth, Assistant Solicitor, Economic Regulatory Administration, Department of Energy, Room 3H–055, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in: Washington, D.C., July 18, 1984.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 84–20288 Filed 7–31–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EL84–26–000]

Central Vermont Public Service Corp.; Motion for an Order Determining Proposed Letter Agreement To Be Unlawful and Therefore Void or in the Alternative for an Expedited Hearing

July 27, 1984.

Take notice that on July 20, 1984, Vermont Electric Generation and Transmission Cooperative, Inc., Lyndonville Electric Department, Village of Ludlow Electric Light Department, Village of Johnson Water and Light Department (Vermont Systems) submitted for filing its motion for an order determining the proposed letter agreement providing for termination or limitation of wholesale electric service to be unlawful and therefore void, or in the alternative for an expedited hearing.

Vermont Systems states that Central Vermont Public Service Corporation (Central Vermont) has served notice on Vermont Systems that it will terminate service to them unless Vermont Systems agree to sign an agreement that contains patently unreasonable and anticompetitive conditions. This letter agreement gives Vermont Systems sixty days in which to agree to Central Vermont's unlawful conditions, or Central Vermont will immediately consider its "service commitments" to Vermont Systems to have been terminated, according to Vermont Systems.

Vermont Systems further states, that under the *Sierra-Mobile* doctrine this termination is impermissible and that

such threatened termination of service and the new service conditions are patently anticompetitive and in violation of the Federal Power Act.

Therefore, Vermont Systems requests that the Commission rule summarily that Central Vermont's proposed letter agreement terminating or limiting its service obligations to Vermont Systems violates its existing contractual obligations and is therefore unlawful under the Federal Power Act and is void. In the alternative, Vermont Systems requests an expedited hearing to resolve this matter promptly.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20324 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7364-001]

Chas. W. Cole, Jr.; Surrender of Preliminary Permit

July 30, 1984.

Take notice that Chas W. Cole, Jr., Permittee for the Patoka Dam Water Power Project No. 7364, has requested that his preliminary permit be terminated. The permit was issued on October 26, 1983, and would have expired on March 31, 1985. The project would have been located on the Patoka River in Dubois County, Indiana.

The Permittee filed its request on May 29, 1984, and the surrender of the Preliminary permit for Project No. 7364 is deemed accepted 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20317 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7365-001]

Chas. W. Cole, Jr.; Surrender of Preliminary Permit

July 30, 1984.

Take notice that Chas W. Cole, Jr., Permittee for the Huntington Lake Dam Water Power Project No. 7365, has requested that his preliminary permit be terminated. The permit was issued on October 26, 1983, and would have expired on March 31, 1985. The project would have been located on the Huntington Lake in Huntington County, Indiana.

The Permittee filed its request on May 29, 1984, and the surrender of the preliminary permit for Project No. 7365 is deemed accepted 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20316 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7366-001]

Chas. W. Cole, Jr.; Surrender of Preliminary Permit

July 30, 1984.

Take notice that Chas. W. Cole, Jr., Permittee for the C. M. Harden Dam Water Power Project No. 7366, has requested that his preliminary permit be terminated. The permit was issued on November 7, 1983, and would have expired on April 30, 1985. The project would have been located on the Big Raccoon Creek in Parke County, Indiana.

The Permittee filed its request on May 29, 1984, and the surrender of the preliminary permit for Project No. 7366 is deemed accepted 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20315 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-59-000]

Detroit Edison Co.; Application

July 27, 1984.

Take notice that on July 18, 1984, The Detroit Edison Company filed an application pursuant to Section 204 of the Federal Power Act, seeking authorization to issue short-term debt in the amount of $259 million and to assume obligations in the amount of $270 million to be issued pursuant to loan agreements and a nuclear fuel heat purchase contract.

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20325 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6324-001]

Energenic Systems, Inc.; Surrender of Preliminary Permit

July 30, 1984.

Take notice that Energenic Systems, Inc., Permittee for the Earthquake Lake Hydroelectric Project No. 6324, has requested that its preliminary permit be terminated. The permit was issued on November 1, 1982, and would have expired on October 31, 1984. The project would have been located on the Madison River in Madison County, Montana.

The Permittee filed its request on May 14, 1984, and the surrender of the preliminary permit for Project No. 6324 is deemed accepted 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20319 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-42-000]

Natural Gas Policy Act; Protest to Negative Well Determinations; Gulf Oil Corp., et al.

Issued: July 27, 1984.

In the matter of State of New Mexico, Section 108 NGPA Determinations—Gulf Oil Corporation; Arnott Ramsay (NCT-C) 010, FERC JD No. 8435975; Mollie Campbell 04, FERC JD No. 8435974; Central Drinkard Unit 0156, FERC JD No. 8435970; Central Drinkard Unit 0403, FERC JD No. 8435971; Central Drinkard Unit 0411, FERC JD No. 8435976; E A Sticher 03, FERC JD No. 843569; Harry Leonard (NCT-D) 01, FERC JD No. 8435972; Harry Leonard (NCT-F) 04, JERC JD No. 8435973.

On July 6, 1984, Gulf Oil Corporation (Gulf) filed with the Federal Energy Regulatory Commission (Commission) a protest against the negative section 108

Natural Gas Policy Act of 1978 (NGPA)[1] stripper well natural gas determinations issued by the Oil Conservation Division of the State of New Mexico (New Mexico) on the above listed wells. These negative determinations were filed by New Mexico on June 18, 1984; prior to the time these determinations would become final, a tolling letter was issued by the Commission on July 13, 1984.

In each of the negative determinations, New Mexico disqualified the wells on the basis that the volume of natural gas produced from each well was measured after the extraction of natural gas liquids and that "[t]he residue gas calculations included in [the] application are not an accurate indication of this well's actual production * * *." Gulf states that NGPA section 108 and the regulations promulgated authorized measurement either before or after the extraction of natural gas liquids. Therefore Gulf states that New Mexico's requirement that measurement occur before extraction of natural gas liquids is an erroneous and impermissible application of the NGPA.

Within 30 days of publication in the **Federal Register**, any person may file a protest or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. If you wish to become a party, to this proceeding you must file a petition to intervene. See Rules 214 or 211.[2]

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20333 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2111-001]

Donald Hunter; Application

July 26, 1984.

Take notice that on July 16, 1984, Donald Hunter filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President—Maine Yankee Atomic Power Company
Vice President—Yankee Atomic Electric Company
Vice President—Vermont Yankee Nuclear Power Corporation

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20326 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-547-000]

Iowa Power and Light Co.; Filing

July 27, 1984.

The filing Company submits the following:

Take notice that on July 19, 1984, Iowa Power and Light Company (Iowa) tendered for filing a Rate Schedule (Schedule), between Iowa Power and Iowa Southern Utilities Company (ISU), dated June 7, 1984.

The Schedule provides for the sale of firm power and energy from Iowa Power to ISU between May 1, 1984 and October 31, 1984.

Iowa requests an affective date of May 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon each affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20327 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-588-001]

Kansas Gas and Electric Co.; Refund Report

July 27, 1984.

Take notice that on July 23, 1984, Kansas Gas and Electric Company (KG&E) submitted for filing its compliance refund report pursuant to the Commission's letter order dated May 30, 1984.

KG&E's report includes detail calculations of the refunds and interest made which were computed from the date payment was received through July 13, 1984 in accordance with 18 CFR 35.1a(a).

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 15, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20328 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-482-000]

National Fuel Gas Supply Corp. Request Under Blanket Authorization

July 27, 1984.

Take notice that on June 13, 1984, National Fuel Gas Supply Corporation (Supply), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-482-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to add an additional point of delivery to its affiliate, National Fuel Gas Distribution Corporation (Distribution), under the authorization issued in Docket No. CP83-4-000 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.

Supply proposes to construct and operate a new point of delivery to Distribution in Winslow Township, Jefferson County, Pennsylvania. Specifically, Supply proposes to connect its gathering line G-96 with Distribution's line FM-14. If such authorization is received, Supply states it would also install a field compressor capable of developing 150 horsepower on line G-96 and upgrade the

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[1] 15 U.S.C. 3301-3432 (1982).

[2] 18 CFR 385.214 or 385.211 (1983).

approximately 1,000 feet of pipe between the location of the compressor and the proposed delivery point, to enable deliveries to be made at the proposed delivery point. Supply proposes to deliver approximately 1,300–1,500 Mcf of gas per day to Distribution at the new delivery point. Since these deliveries would serve existing, primarily residential, markets, the proposed change in delivery points would have no impact on Supply's peak day and annual deliveries, it is asserted.

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. 84–20329 Filed 7–31–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5961–002]

New York State Office of Parks, Recreation and Historic Preservation; Surrender of Preliminary Permit

July 30, 1984.

Take notice that the New York State Office of Parks, Recreation and Historic Preservation, Permittee for the proposed Red House Lake Project No. 5961, requested by letter dated May 30, 1984, that its preliminary permit be terminated. The preliminary permit was issued February 22, 1983, and would have expired on August 31, 1984. The project would have been located on Red House Brook in Cattaraugus County, New York.

The surrender of the preliminary permit for Project No. 5961 is effective thirty days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–20320 Filed 7–31–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–67–004]

Pelican Interstate Gas Corp.; Petition To Amend

July 27, 1984.

Take notice that on July 11, 1984, Pelican Interstate Gas Corp. (Petitioner), 1200 Milam, Suite 2700, Houston, Texas 77002, filed in Docket No. CP84–67–004, a petition to amend the order issued on December 30, 1983, in Docket No. CP84–67–000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of gas by Petitioner for Natural Gas Pipeline Company of America (Natural) from two new points of receipt on Petitioner's system in West Cameron Block 210 and Block 211, offshore Louisiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The December 30, 1983, order authorized Petitioner to acquire and operate the facilities of Tidal Transmission Company (Tidal) and to succeed to the certificate of public convenience and necessity issued to Tidal in Docket No. CP68–323, as amended. The order also granted permission and approval for the abandonment by Tidal of the facilities and services, effective upon the date the certificate sought by Petitioner in Docket No. CP84–67–000 is accepted by Petitioner. Petitioner accepted the certificate on this same date.

Petitioner states that the existing transportation agreement between Petitioner and Natural dated September 23, 1968, as amended, was amended to add two additional points of receipt for Petitioner to receive gas for Natural's account for transportation onshore. Petitioner states that the first new point of receipt would be located at the proposed interconnection between Petitioner's existing facilities and the proposed facilities of CNG Producing Company (CNG) located in West Cameron Block 210, offshore Louisiana. It is indicated that the nonjurisdictional tap necessary to connect Petitioner's existing facilities with those of CNG would be constructed by CNG for purposes of § 2.55(d) of the Commission's General Policy and Interpretations and as defined in § 154.91 of the Commission's Regulations. Petitioner states that the second new point of receipt would be located at the existing interconnection between Petitioner's facilities and the facilities of Arco Oil and Gas Company, Division of Atlantic Richfield Company (Arco), located in West Cameron Block 211, offshore Louisiana. It is indicated that this interconnection was previously constructed and operated by Tidal to receive gas for a local distribution company for transportation onshore pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 and Subpart B of Part 284 of the Commission's Regulations. Petitioner indicates that the gas volumes to be received by Petitioner at these points of receipt for transportation for Natural are volumes which Natural would purchase from CNG and ARCO.

It is asserted that no costs associated with the construction of CNG's facilities would be borne by Petitioner and no jurisdictional facilities would be added to Petitioner's system. Further, it is asserted that Petitioner does not seek an increase to the certificated maximum transportation volume of 145,750 Mcf of gas per day and that the volumes received at the new points of receipt together with the volumes received at the existing points of receipt would not exceed such maximum volume. Petitioner states that the addition of the new points of receipt would not change the rates currently paid by Natural for services rendered.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 17, 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 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. 84–20330 Filed 7–31–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL84–25–000]

Snow Mountain Pine Co. v. CP National Corp. and Idaho Power Co.; Complaint for Declaratory Relief

July 27, 1984.

Take notice that on July 12, 1984, Snow Mountain Pine Company ("Complainant") submitted for filing its Complaint for Declaration Relief.

Complainant alleges that it owns a qualifying cogeneration facility (QF) and entered negotiations with CP National Corporation (CPN) to sell energy and capacity from the facility to CPN. It further alleges that CPN terminated the negotiations and has refused to purchase any energy or capacity from the Complainant. It further alleges that Idaho Power Company (IPC) supplies in excess of 90% of CPN's requirements pursuant to an Agreement For Supply of Power and Energy Between IPC and California Pacific Utilities Companies, dated August 31, 1983. Complainant alleges that CPN has continued to base its refusal to offer to purchase and to negotiate to purchase QF power from Complainant on CPN's having no need for QF power because CPN's requirements for power are presently being supplied and will be supplied after 1985 by IPC. Complainant alleges that CPN has filed rates for the purchase of power from qualifying facilities based on its "avoided costs" derived from a future hypothetical all-requirements contract between IPC and CPN and that these proposed rates frustrate Federal and Oregon law.

Therefore, Complainant requests that the Commission issue an order declaring:

(1) That the current Requirements Contract is contrary to public policy, to the extent (a) the contract language expressly discourages or penalizes purchases which are required by section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), (b) the contract is being used by CPN as an excuse for not purchasing power pursuant to section 210 of PURPA and (c) the contract will be used by CPN to offer cost which approximate IPC's average system costs rather than true avoided costs;

(2) That the Commission will not order the execution of or approval of any future requirements contract between CPN and IPC unless CPN complies with PURPA and purchases QF power previously tendered to it under PURPA;

(3) That the Complainant is entitled to the avoided cost adopted by CPN based on IPC filings with the Oregon Public Utilities Commissioner (OPUC) when the legally enforceable obligation to supply power was incurred as elected by the Complainant; that such legally enforceable obligation was incurred not later than June of 1984; that Complainant's entitlement to the filed avoided costs cannot be avoided merely be CPN's refusal to enter into a contract or attempt to take advantage of changed circumstances; and

(4) That the present use by CPN of a hypothetical Requirements Contract as a basis to set CPN's avoided costs for the years 1985–2000 is unlawful and improper.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 27, 1984, protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–20331 Filed 7–31–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 199–025]

South Carolina Public Service Authority; Application for Change in Land Rights

July 30, 1984.

Take notice that South Carolina Public Service Authority, Licensee for the Santee Cooper Project, FERC No. 199, in Calhoun County, South Carolina, filed on May 7, 1984, an application for authorization to exchange lands by quite claim deed with the heirs of Lottie E. Griffith.

The lands to be exchanged are located within Calhoun County, South Carolina. The Licensee will transfer approximately 10.53 acres of project lands, which are inaccessible to the Licensee and the general public except by water, to the heirs of Lottie E. Griffith. The heirs of Lottie E. Griffith will transfer approximately 10.53 acres of their lands to the Licensee, along with a perpetual easement, which will provide the necessary access to utilize the property in conjunction with its land use designation as provided in its Exhibit R.

Correspondence with the Licensee should be directed to: Mr. William C. Mescher, President, South Carolina Public Service Authority, One Riverwood Drive, Moncks Corner, South Carolina 29461, and Mr. Charles B. Horger, Attorney at Law, 459 Amelia Street, NE., P.O. Box 329, Orangeburg, South Carolina 29116.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rule 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1983). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceedings. Any comments, protests, or motions to intervene must be filed on or before September 5, 1984.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Deputy Director, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–20322 Filed 7–31–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–241–001]

Southern California Edison Co.; Refund Report

July 27, 1984.

Take notice that on June 14, 1984, Southern California Edison Company (Edison) submitted for filing its refund report pursuant to a Commission order dated March 30, 1984.

Edison states that is has refunded, with interest, the difference between test energy valuation and recorded nuclear full cost incurred during their

period between August 8 and October 9, 1983. In compliance with the Commission's order, Edison states that it distributed refunds to wholesale customers on May 30, 1984.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 14, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20332 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6912-001]

Weber Basin Water Conservancy District; Surrender of Preliminary Permit

July 30, 1984.

Take notice that Weber Basin Water Conservancy District, Permittee for the proposed Willard Pumping Plant No. 1 Project No. 6912, has requested that its preliminary permit be terminated. The permit was issued on May 11, 1983, and would have expired October 31, 1984. The project would have been located on the Willard Canal in Box Elder County, Utah.

The Permittee filed its request on May 31, 1984, and the surrender of the preliminary permit for Project No. 6912 is deemed accepted 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-20321 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-566-000]

Webster Brick Company, Inc., Complainant; Columbia Gas Transmission Corp., Respondent; Complaint and Request for Emergency Stay and Investigation

July 26, 1984.

Take notice that on July 2, 1984, Webster Brick Company, Inc. (Webster Brick), P.O. Box 12887, Roanoke, Virginia 24029, filed in Docket No. CP84-566-000 pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206) a complaint and a request for an emergency stay directing Columbia Gas Transmission Corporation (Columbia) to restore transportation service on behalf of Webster Brick and, if necessary, establish an investigation, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

Webster Brick states that pursuant to a gas purchase agreement dated January 31, 1984, it purchases from R. Gene Brasel (Brasel) natural gas produced by Brasel from oil and gas wells located in Meigs and Gallia Counties, Ohio. It is indicated that on May 21, 1984, Columbia filed in Docket No. CP84-432-000 a request for authority to transport up to 1,225 dt equivalent of natural gas per day pursuant to Section 157.209 of the Commission's Regulations and under the blanket certificate issued in Docket No. CP83-76-000. It is indicated that the transportation service is peformed pursuant to a gas transportation agreement (Agreement) dated March 15, 1984, among Columbia, Webster Brick, Commonwealth Gas Pipeline Corporation and Commonwealth Gas Services, Inc. Commonwealth Gas Services, Inc. is the distribution company serving Webster Brick and it and Commonwealth Gas Pipeline Corporation are affiliates of Columbia, it is averred.

Webster Brick states that on or about June 15, 1984, Columbia, Commonwealth Gas Pipeline Corporation and Commonwealth Gas Services, Inc. unlawfully terminated the subject transportation service and that this termination is in violation of the Agreement and Rate Schedule TS-1 of Columbia's FERC Gas Tariff Original Volume 1-A. Webster Brick further states that this termination has resulted in irreparable injury to Webster Brick in the form of lost product, inability to match brick on orders partially completed, other loss of business and higher fuel costs. Webster Brick indicates that on information and belief, Columbia continued to take gas from Brasel after terminating service to Webster Brick and has unlawfully converted such volumes to its own use.

Webster Brick therefore requests that the Commission issue an emergency stay directing Columbia to restore transportation service to Webster Brick and if necessary, initiate an investigation under Section 14 of the Natural Gas Act to investigate all facts, conditions, practices and matters related to the subject transportation.

Any person desiring to be heard or to make any protest with reference to said filing should on or before August 24, 1984, file with the Federal Energy REgulatory Commission, Washington, DC 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). 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-20334 Filed 7-31-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed With the Office of Hearings and Appeals; Week of June 29 through July 6, 1984

During the Week of June 29 through July 6, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments n the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: July 23, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICEOF HEARINGS AND APPEALS

[Week of June 29 through July 6, 1984]

Date	Name and Location of Applicant	Case No.	Type of Submission
April 11, 1984	Paul Investments Inc. and A. B. Holding Co., San Antonio, TX.	HRD-0222	Motion for Discovery. If granted: Discovery would be granted to Paul Investments, Inc. in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. HRO-0096) issued to the firm.
June 29, 1984	Economic Regulatory Administration, Washington, DC	HRZ-0210	Interlocutory Order. If granted: Hudson Refining Company, Inc. would be joined as a party in the Proposed Remedial Order proceeding (Case No. HRO-0043) issued to Hudson Oil Co., Inc.
Do	Economic Regulatory, Administration, Houston, TX	HRZ-0211	Interlocutory Order. If granted: The June 14, 1984 Decision and Order (Case No. HRW-0024) issued to General Atlantic Petroleum, Inc. and Gerald S. Klotz would be modified to require the firm to refund $1,032,835.71 plus interest.
Do	J.S. Beebe & J.S. Beebe, Jr, Washington, DC	HEF-0505	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement special refund procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the September 7, 1983, Consent Order issued to J.S. Beebe & J.S. Beebe, Jr.
July 3, 1984	Air Transport Association, Washington, DC	HEG-0035	Petition for Special Redress. If granted: The Department of Energy would retrieve approximately $101 million in consent order funds deposited to the U.S. Treasury as miscellaneous receipts, and conduct special refund proceedings, under 10 CFR Part 205, Subpart V, for identifyng parties injured by the alleged overcharges compromised in the settlements involved.

REFUND APPLICATIONS RECEIVED

[Week of June 29 through July 6, 1984]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
7/2/84	Amoco/New York	RQ21-98.
7/3/84	Amoco/Gibson County Oil Co.	RF21-12344.
		RF21-12345.
7/5/84	Marion/Ciba-Geigy	RF37-9

[FR Doc. 84-20265 Filed 7-31-84; 8:45 am]

BILLING CODE 6450-01-M

Cancellation of Request for Comments

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Cancellation of Request for Comments.

SUMMARY: In light of the pending case of *Blaylock Oil Co.* v. *United States Dept. of Energy, et al.*, Civil Action No. C84-764A, (N.D. Ga.), the Proposed Decision and Order in the *Blaylock Oil Company, Inc.*, special refund proceeding, Case No. HEF-0037, 49 Fed. Reg. 29,668 (July 23, 1984) is not effective until further notice and no comments regarding the proposed determination should be submitted at this time.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2860.

Dated: July 26, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-20270 Filed 7-31-84; 8:45 am]

BILLING CODE 6450-01-M

Objection To Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Period of June 4 Through June 15, 1984

During the period of June 4 through June 15, 1984, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 withing 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: July 26, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Lotus Petroleum, Houston, Texas, HRO-0233, Crude oil

On June 14, 1984, the State of Texas, P.O. Box 12548, Capitol Station, Austin Texas 78711; Lotus Petroleum, Inc., Houston, Texas; William T. Tootle, 10611 Holly Springs, Houston, Texas 77042; and Lynn O. Castle, 2520 96th St., Lubbock, Texas 79423, filed Notices of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to Lotus Petroleum, Inc., William T. Tootle and Lynn O. Castle on May 8, 1984.

In the PRO the Economic Regulatory Administration found that during May 1980 through December 1980, Lotus Petroleum, Inc., William T. Tootle and Lynn O. Castle sold crude oil at prices in excess of those permitted under 10 CFR Part 212.

According to the PRO the violation resulted in $7,008,664.79 of overcharges.

R.P. Trading Company, et al., Houston, Texas, HRO-0231, Crude oil

On June 14, 1984, R.P. Trading Company and Seldon R. Harris, 17101 Kuykendahl, Suite 200, Houston, Texas 77068, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas Field Office of the Economic Regulatory Administration issued to R.P. Trading Co., Seldon R. Harris and Ralph Pedler on May 10, 1984.

In the PRO the Dallas Field Office found that during the period October 1974 to December 1980, the respondents sold crude oil at prices in excess of those permitted under 10 CFR Part 212.

According to the PRO the violation resulted in $1,794,946 of overcharges.

Tootle Petroleum, Inc., Houston, Texas, HRO-0232, Crude oil

On June 14, 1984, the State of Texas, P.O. Box 12548, Capitol Station, Austin, Texas 78711, and on June 18, 1984, Tootle Petroleum,

Inc. and Iron R. Tootle, 10611 Holly Springs, Houston, Texas 77042, filed Notices of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to Tootle Petroleum, Inc. and Iron R. Tootle on May 11, 1984.

In the PRO the ERA found that during September 1979 through December 1980, Tootle Petroleum, Inc. and Iron R. Tootle sold crude oil at prices in excess of those permitted under 10 CFR Part 212.

According to the PRO the violation resulted in $6,751,151.18 of overcharges.

[FR Doc. 84-20282 Filed 7-31-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66107A; FRL-2639-1]

Certain Pesticide Products; Intent To Cancel Registrations; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: This notice corrects five voluntary cancellations published in the Federal Register of March 21, 1984 (49 FR 10573). Monsanto Company requested a two-year period for continued sale and distribution, which was inadvertently published as a one-year approval. This document corrects the time allowed for continued sale and distribution to two years after the effective date of cancellation.

EFFECTIVE DATE: August 31, 1984.

ADDRESS:

By mail, submit comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA

FOR FURTHER INFORMATION CONTACT:

By mail: Lela Sykes, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 718C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-2126)

SUPPLEMENTARY INFORMATION: In FR Doc. 84-7429 published in the Federal Register of March 21, 1984 (49 FR 10573) the following five voluntary cancellations were published.

Registration No.	Product name	Registrant	Date registered
524-89	Randox	Monsanto Co., 1101 17th St., NW, Washington, DC 20036.	Feb. 8, 1956.
524-104	Monsanto Granular Randox.	do	Mar. 11, 1959.
524-311	Polaris	do	Mar. 10, 1975.
524-312	Randox Technical.	do	Sept. 25, 1974.
524-317	Glyphosine Technical Grade.	do	April 28, 1975.

EPA has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for two years after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity of any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

The original notification document inadvertently stated that the period for continued sale and distribution was one year. This error is corrected to the two-year period originally granted in a letter to Monsanto Company dated February 8, 1984, which is available for public inspection in Rm. 236, CM#2, at the above address from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1), 86 Stat. 973, 89 Stat. 751, (7 U.S.C. 136))

Dated: July 17, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-19738 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

[PP 4G3024/T460; FRL-2639-3]

Triclopyr; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the herbicide triclopyr and its metabolites in or on certain raw agricultural commodities. These temporary tolerances were requested by Dow Chemical USA.

DATE: These temporary tolerances expire June 14, 1985

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1800).

SUPPLEMENTARY INFORMATION: Dow Chemical USA, 9008 Building, P.O. Box 1706, Midland, MI 48640, has requested in pesticide petition PP 4G3024 the establishment of temporary tolerances for the combined residues of the herbicide triclopyr (3,5-trichlo-2-pyrinyloxyacetic acid and its metabolites 3,5,6-trichloro-2-pyridinol and 2-methoxy-3,5,6-trichloropyridine in or on the raw agricultural commodities forage grasses at 2,000 parts per million (ppm) and forage grasses hay at 2,000 ppm; and for the combined residues of triclopyr and its metabolites 3,5,6-trichloro-2-pyridinol in or on milk at 0.5 ppm, of which no more than 0.2 ppm is triclopyr; meat, fat, and meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, and sheep at 1.0 ppm, of which no more than 0.2 ppm is triclopyr; and liver and kidney of cattle, goats, hogs, horses, and sheep at 5.0 ppm, of which no more than 3.0 ppm is triclopyr. These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 464-EUP-82, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Dow Chemical USA must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of

the EPA or the Food and Drug Administration.

These tolerances expire June 14, 1985. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: July 17, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–19875 Filed 7–31–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–240048; FRL–22639–2]

Special Local Need Registrations; Voluntary Cancellations

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This notice lists names of registrants requesting voluntary cancellation of section 24(c) registrations of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. The State registration for each of these products has already been cancelled by the issuing State. Distribution or sale of these products by the registrant, using the section 24(c) label, after the effective date of cancellation will be considered a violation of the FIFRA.

EFFECTIVE DATE: August 31, 1984.

ADDRESSES: By mail submit comments to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM ¢2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked "confidential" may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

Lela Sykes, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 718C, CM ¢2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2126).

SUPPLEMENTARY INFORMATION: The following registrants have requested that EPA voluntarily cancel section 24(c) registrations:

1. American Hoechst Corp., Agricultural Division, Route 202–206 North, Somerville, NJ 08876.

2. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland, OH 44114.

3. Dow Chemical U.S.A., Post Office Box 1706, Midland, MI 48640.

4. E. I. Du Pont De Nemours & Co., Agricultural Chemicals Dept., Wilmington, DE 19898.

5. Forshaw Chemicals, Inc., 650 State St., Charlotte, NC 28208.

6. Gustafson, Inc., P.O. Box 660065, Dallas, TX.

7. Hetrick Bros., Box 36, Orovada, NV 89423.

8. Jefferson County Mosquito Control District, P.O. Box 458, Nederland, TX 77627.

9. Lester Farias, Smith, NV 89430.

10. The Chas. H. Lilly Co., 7737 N.E. Killingsworth, Porland, OR 97218.

11. Mallinckrodt, Inc., Mallinckrodt and Second Sts., P.O. Box 5439, St. Louis, MO 63147.

12. Merck Sharp & Dohme Research Laboratories, P.O. Box 2000, Rahway, NJ 07065.

13. Mobay Chemical Corp., Agricultural Chemicals Div., P.O. Box 4913, Hawthorn Rd., Kansas City, MO 64120.

14. Monsanto Co., 1101 17th St. NW., Washington, DC 20036.

15. Nevada Dept. of Agriculture, Div. of Plant Industry, P.O. Box 11100, Reno, NV.

16. Ortho Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804.

17. Phillips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502.

18. Pennsylvania Dept. of Agriculture, Bureau of Plant Industry, 2301 N. Cameron St., Harrisburg, PA 17110.

19. Pennwalt Corp., AgChem Div., 1630 E. Shaw Ave., Suite 179, Fresno, CA 93170.

20. Rhone-Poulenc, Inc., Agrochemical Division, P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852.

21. Selco Supply Co., 650 "O" St., Greeley, CO 80631.

22. Shell Chemical Co., One Shell Plaza, P.O. Box 4320, Houston, TX 77210.

23. Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709.

The following section 24(c) registrations have been voluntarily cancelled:

Special local need Reg. No.	Product name	Registrant	Date registered
		Montana	
MT 78 0005	Roundup®	Monsanta Co	3/22/78
MT 79 0005	Roundup®	....do	2/27/79
MT 79 0009	Far-Go® Selective Herbicide	....do	4/16/79
MT 79 0010	Bladex® 80 W Herbicide	Shell Chemical	3/26/79
MT 79 0014	Treflan 5 G	Elanco	5/15/79
MT 80 0002	Roundup®	Monsanto Co	2/22/80

Special local need Reg. No.	Product name	Registrant	Date registered
MT 80 0003	Crop King Colloidal Lindane 40%.	Gustafson, Inc	3/25/80
	Nebraska		
NE 78 0003	DuPont Lannate® L Insecticide	E.I. DuPont De Nemours & Co	5/16/78
NE 78 0004	DuPont Manzate® 200 Fungicide.	do	3/31/78
NE 78 0008	Ortho Paraquat CL	Ortho Chevron Chem Co	5/9/78
NE 78 0011	Lasso® EC Herbicide	Monsanto Co	6/15/78
NE 79 0002	Bladex 80 W Herbicide	Shell Chemical	1/10/79
NE 80 0020	Orthene Forest Spray	Ortho Chevron Chem. Co	7/21/80
NE 81 0004	Bladex 80 W Herbicide	Shell Chemical	4/9/81
Ne 82 0002	Baldex 80 W Herbicide	do	3/17/82
NE 82 0003	Bladex* 4L Herbicide	Shell Chemical	3/16/82
NE 82 0005	Bladex* 80 W Herbicide	do	3/17/82
NE 82 0006	Bladex* 4L Herbicide	do	3/17/82
NE 82 0015	Orthene 75 S Soluble Powder	Ortho Chevron Chem. Co	5/19/82
	Nevada		
NV 76 0001	Hetrick Dill Weed Oil	Hetrick Bros	5/24/76
NV 76 0002	Ortho Paraquat CL	Lester Farias	11/10/76
NV 77 0002	Pittclor FR	Nevada State Dept. of Agriculture	2/28/77
NV 77 0005	Bravo 6F	Diamond Shamrock Corp	5/2/77
NV 77 0006	Hi-Chlun Granular	Nevada State Dept. of Agriculture	5/19/77
NV 77 0009	Lorsban 4E	Dow Chemical Co	5/25/77
NV 77 0011	Dow-Selective Weed Killer	Nevada State Dept. of Agriculture	6/14/77
NV 77 0012	Penncap-M Insecticide	Pennwalt Corp	6/14/77
NV 77 0013	Sulfuric Acid	Nevada State Dept. of Agriculture	6/28/77
NV 77 0015	Dursban 44 Insecticide	Dow Chemical Co	12/23/77
NV 78 0001	Toke-25	Nevada State Dept. of Agriculture	3/22/78
NV 78 0007	Ortho Paraquat CL	do	5/27/80
NV 78 0008	Ortho Paraquat Plus	Chevron Chem. Co	12/28/78
NV 78 0009	Nudrin* 1.8 Insecticide	Shell Chemical	12/28/78
NV 78 0009	Nurdrin* 1.8 Methomyl Insecticide Solution.	do	12/29/78
NV 79 0001	Nurdrin* 90 Methomyl Insecticide Water Soluble Powder.	do	2/15/79
NV 80 0007	Ortho Paraquat CL	Nevada State Dept. of Agriculture	5/27/80
	New Hampshire		
NH 83 0009	Pydrin* Insecticide 2.4 Emulsible Concentrate.	Shell Chemical	9/9/83
	New Jersey		
NJ 76 0002	Ortho Orthocide 50 Wettable	Ortho Chevron Chem. Co	5/18/76
NJ 77 0001	Mocap Nematicide-Insecticide 10% G.	Rhone-Poulenc, Inc	3/21/77
NJ 79 0003	Orthene 75 S Soluble Powder	Ortho Chevron Chem. Co	2/16/79
NJ 79 0010	Bladex* 4L Herbicide	Shell Chemical	4/2/79
NJ 79 0011	Bladex* 80 W Herbicide	do	4/2/79
NJ 79 0017	Lasso® EC Herbicide	Monsanto Co	5/30/79
NJ 79 0024	Orthene 75 S Soluble Powder	Ortho Chevron Chem. Co	8/15/79
NJ 80 0001	Roundup®	Monsanto Co	3/21/80
NJ 80 0002	Mocap Nematicid-Insecticide 10% G.	Rhone-Poulenc, Inc	4/1/80
NJ 81 0017	Ortho Paraquat CL	Ortho Chevron Chem. Co	5/20/81
NJ 83 0005	Pydrin* Insecticide 2.4 Emulsible.	Shell Chemical	5/20/83
	New Mexico		
NM 78 0003	Roundup®	Monsanto Co	2/14/78
NM 80 0003	Selco Zinc Phosphate Bait	Selco Supply Co	1/30/80
NM 80 0005	Gustafson 42-S Thiram Fungicide.	Gustafson, Inc	3/27/80
NM 80 0006	Vitavax-EVS Concentrate	do	3/27/80
NM 80 0007	Gustafson Botran-30C	do	3/27/80
NM 83 0010	Pydrin* Insecticide 2.4 Emulsible.	Shell Chemical	5/26/83
	New York		
NY 78 0009	Mocap 10G	Rhone-Poulence, Inc	6/9/78
NY 78 0012	DuPont Vydate L Insecticide-Nematicide.	E. I. DuPont de Nemours & Co	6/27/78
NY 78 0024	Pyrenone EC	Fairfield American Corp	8/11/78
NY 78 0028	Ortho 14 Concentrate	Orotho Chevron Chem. Co	12/13/78
NY 79 0006	Orthene Systemic Insect Spray	do	6/8/79
NY 79 0007	Orthene Insect Spray	do	6/8/79
NY 79 0009	Shell Bladex 80 Wettable Powder Herbicide.	Shell Chemical	6/26/79
NY 79 0010	Shell Bladex 4 Water Dispersible Herbicide Suspension.	do	6/26/79
NY 80 0001	Orthocide Plus	Ortho Chevron Chem. Co	2/7/80
NY 80 0015	Ortho Plictran 50 Wettable Miticide.	do	11/12/80
NY 81 0029	Roundup®	Monsanto Co	10/17/81

Special local need Reg. No.	Product name	Registrant	Date registered
		North Carolina	
NC 77 0004	Mocap PCNB 3-10 Granular	Rhone-Poulenc, Inc	2/22/77
NC 77 0010	Tre-Hold Sprout Inhibitor	Union Carbide	4/13/77
NC 77 0016	Shell Bladex 80 WP Herbicide	Shell Chemical	5/10/77
NC 78 0010	Roundup®	Monsanto Co	2/16/78
NC 78 0016	Amex Pre-Emergence Herbicide	Union Carbide	3/10/78
NC 79 0006	DuPont Velpar® Brush Killer	E.I. DuPont de Nemours & Co	3/20/79
NC 79 0026	Roundup®	Monsanto Co	8/29/79
NC 80 0010	Orthene Tobacco Insect Spray	Ortho Chevron Chem. Co	3/24/80
NC 80 0024	Botran-30C	Gustafson, Inc	8/25/80
NC 81 0020	DuPont Velpar® Gridball® Brush Killer.	E.I. DuPont de Nemours & Co	4/16/81
NC 82 0006	Orthene Tobacco Insect Spray	Ortho Chevron Chem. Co	3/19/82
NC 82 0015	Bladex® 4L Herbicide	Shell Chemical	5/10/82
NC 83 0018	Pydrin Insecticide 2.4 Emulsible Concentrate.	.....do	6/15/83
		North Dakota	
ND 76 0003	Dyiox 80% Soluble Powder	Mobay Chemagro Div	5/4/76
ND 77 0006	DuPont Manzate® D Fungicide	E.I. DuPont de Nemours & Co	8/3/77
ND 78 0003	Roundup®	Monsanto Co	4/17/78
ND 78 0010	Bladex 80 W	Shell Chemical	10/12/78
ND 81 0024	Bladex 4L	.....do	12/28/81
ND 81 0025	Bladex 90 W	.....do	12/28/81
ND 82 0010	Hoelon 3EC Herbicide	American Hoechst	5/21/82
		Ohio	
OH 77 0009	DuPont Krenite® Brush Control Agent.	E.I. DuPont de Nemours & Co	9/28/77
OH 77 0012	Roundup®	Monsanto Co	12/9/77
OH 79 0002	Ortho Paraquat CL	Ortho Chevron Chem. Co	3/15/79
OH 79 0003	Bladex® 80W Herbicide	Shell Chemical	4/2/79
OH 79 0004	Bladex® 4L Herbicide	do	4/2/79
OH 79 0007	Orthene Insect Spray	Ortho Chevron Chem. Co	5/1/79
OH 81 0004	DuPont Vydate® L Insecticide/ Nematicide.	E.I. DuPont de Nemours & Co	3/13/81
		Oklahoma	
OK 77 0008	Nemagun 12.1 C Concentrate Soil Fumigant.	Shell Chemical	5/25/77
OK 77 0009	Nemagun 12.1 C Concentrate Soil Fumigant.	.....do	5/25/77
OK 78 0001	Roundup®	Monsanto Co	3/15/78
OK 78 0010	DuPont Velpar® Weed Killer	E.I. Dupont de Nemours & Co	5/24/78
OK 78 0011	Rabon Insecticide Cattle Ear Tag.	Shell Chemical	5/24/78
OK 80 0004	Botran 30C	Gustafson, Inc	4/16/80
OK 80 0005	42-S Thiram	.....do	4/17/80
OK 80 0006	Vitavex 30C	.....do	4/17/80
		Oregon	
OR 77 0001	MGK Big Game Repellant	MGK McLaughlin Gormley King Co	1/10/77
OR 77 0003	Orthene Tree and Ornamental Spray.	Ortho Chevron Chem. Co	1/25/77
OR 77 0007	Envert-DT	Union Carbide	3/1/77
OR 77 0011	AmChem 2,4,5-TP	.....do	3/1/77
OR 77 0036	DuPont Benlate Fungicide	E.I. DuPont de Nemours & Co	6/2/77
OR 77 0086	Tre-Hold Sprout Inhibitor	Union Carbide	11/16/77
OR 78 0006	Nudrin 1.8 Insecticide	Shell Chemical	2/1/78
OR 78 0010	Nudrin 90 Methomyl Insecticide	.....do	2/28/78
OR 78 0023	Modown 80 WP	Rhone-Poulenc, Inc	4/18/78
OR 78 0037	Mertect LSP Fungicide	Gustafson, Inc	7/10/78
OR 78 0052	Shell Bladex 80 WP Herbicide	Shell Chemical	10/5/78
OR 79 0009	Roundup®	Monsanto Co	2/28/79
OR 79 0023	Lasso® EC Herbicide	.....do	11/13/79
OR 79 0074	Chipco 26019 Fungicide	Rhone-Poulenc, Inc.	11/14/79
OR 80 0011	Bronate	.....do	1/29/80
OR 80 0012	Buctril	.....do	1/29/80
OR 80 0016	Roundup®	Monsanto Co	2/12/80
OR 80 0049	Chipco 26019 Fungicide	Rhone-Poulenc, Inc	5/15/80
OR 80 0091	Orthene 75 S Soluble Powder	Ortho Chevron Chem. Co	11/26/80
OR 81 0031	Orthene 75 S Soluble Powder	.....do	4/6/81
OR 82 0054	Pydrin® Insecticide 2.4 Emulsible Conc.	Shell Chemical	7/12/82
OR 82 0065	Millers Wipe-Out Slug & Snail Bait.	Chas. H. Lilly Co	9/28/82
OR 83 0039	Pydrin® Insecticide 2.4 Emulsible Conc.	Shell Chemical	7/14/83
		Pennsylvania	
PA 76 0002	Bravo 6F	PA Dept. of Agr., Bureau of Plant Industry	5/4/76
PA 77 0008	Mesurol 75% WP	Ortho Chevron Chem. Co	6/20/77
PA 77 0010	Roundup®	Monsanto Co	12/1/77
PA 79 0007	Koban 30	Mallinckrodt, Inc	4/11/79
PA 80 0012	Roundup®	Monsanto Co	4/21/80
PA 80 0033	Vendex® 4L Miticide	Shell Chemical	7/10/80

Special local need Reg. No.	Product name	Registrant	Date registered
PA 81 0020	Bladex* 80 W Herbicide	....do	5/21/81
PA 81 0021	Bladex* 4L Herbicide	....do	5/21/81
PA 82 0022	Ortho Paraquat Plus	Ortho Chevron Chem. Co	5/27/81
PA 82 0003	Nudrin* 1.8 Methomyl Insecticide Solution.	Shell Chemical	1/25/82
PA 82 0006	Vaponite* 2 Emulsifiable Insecticide.	....do	2/17/82
	Rhode Island		
RI 80 0001	Orthicide Plus	Ortho Chevron Chem. Co	3/31/81
	South Carolina		
SC 77 0012	Zolone EC	Rhone-Poulenc, Inc	8/1/77
SC 77 0013	Modown 80% WP	....do	8/31/77
SC 77 0013	Modown EC	....do	8/31/77
SC 77 0016	Shell Bladex 80 WP Insecticide	Shell Chemical	11/18/77
SC 78 0004	Roundup®	Monsanto Co	1/30/78
SC 78 0020	Nudrin 90 Methomyl Insecticide	Shell Chemical	7/21/78
SC 78 0021	Nudrin 1.8 Insecticide Solution	....do	7/21/78
SC 79 0010	DuPont Velpar® Gridball® Brush Killer.	E.I. DuPont de Nemours & Co	5/15/79
SC 81 0005	Orthene Tobacco Insect Spray	Ortho Chevron Chem. Co	3/23/81
SC 81 0019	Pydrin 2.4 EC	Shell Chemical	6/5/81
SC 82 0015	Orthene Tobacco Insect Spray	Ortho Chevron Chem. Co	5/6/82
SC 82 0025	Hoelon 3 EC Herbicide	American Hoechst Corp	8/24/82
	South Dakota		
SD 78 0011	Shell Bladex 80 WP	Shell Chemical	12/79/78
SD 79 0001	Methoxychlor 50 Seed Protectant.	Gustafson, Inc	2/26/79
SD 79 0015	Amiben Chloramben Herbicide	Union Carbide	9/24/79
SD 80 0007	Roundup®	Monsanto Co	8/13/80
SD 81 0021	Bio-Ceutic Overtime	Philips Roxane, Inc	6/8/81
SD 81 0022	Anchor Premectrin 10% EC	....do	6/8/81
SD 82 0010	Bladex* 80 W Herbicide	Shell Chemical	10/18/82
	Tennessee		
TN 76 0001	Bladex* 80 W Herbicide	Shell Chemical	1/26/76
TN 77 0005	Roundup®	Monsanto Co	6/29/77
TN 78 0006	DuPont Manzate® D Fungicide	E.I. DuPont de Nemours & Co	3/3/78
TN 78 0012	Emulsamine E-3	Union Carbide	5/12/78
TN 78 0017	Furlin 20% Lindane EC	Forsham Chemicals, Inc	8/14/78
TN 79 0001	Rabon* Insecticide Cattle Ear Tag.	Shell Chemical	1/5/79
TN 79 0007	DuPont Velpar® Gridball® Brush Killer.	E.I. DuPont de Nemours & Co	3/15/79
TN 79 0014	Ortho Diquat Water Weed Killer	Ortho Chevron Chem. Co	4/18/79
TN 79 0018	Orthene 75 S Soluble Powder	....do Chem. Co	5/3/79
TN 79 0020	Nudrin 90	Shell Chemical	9/21/79
TN 79 0021	Nudrin 1.8 Insecticide Solution	....do	9/21/79
TN 81 0003	Nudrin 1.8 Methylanyl Insecticide Solution.	....do	1/9/81
TN 81 0004	Nudrin 90 Methomyl	....do	1/9/81
TN 81 0005	Anchor Permectrin 10%	Philips Roxane, Inc	1/14/81
TN 81 0006	Bioceutic Overtime	....do	1/14/81
	Texas		
TX 76 0011	Rabon* Insecticide Cattle Ear Tag.	Shell Chemical	6/23/76
TX 76 0013	Cythion Insecticide The Premium Grade Malathion.	Jefferson Co. Mosquito Control District	7/19/76
TX 77 0015	DuPont Lannate® L Insecticide	E.I. DuPont de Nemours & Co	5/18/77
TX 77 0018	Roundup®	Monsanto Co	6/22/77
TX 77 0024	Ortho Dibrom 14 Concentrate	Jefferson Co. Mosquito Control District	9/2/77
TX 77 0029	Nudrin 1.8 Insecticide Solution	Shell Chemical	12/7/77
TX 77 0030	Nudrin* 90 Methomyl Insecticide.	....do	12/8/77
TX 78 0014	DuPont Lannate® Insecticide	E.I. DuPont de Nemours & Co	3/28/78
TX 78 0015	DuPont Lannate® L Insecticide	....do	3/28/78
TX 78 0022	DuPont Lannate® Insecticide	....do	5/10/78
TX 78 0023	DuPont Lannate® L Insecticide	....do	5/10/78
TX 78 0039	Nudrin* 1.8 Insecticide Solution	Shell Chemcial	8/2/78
TX 78 0040	Nudring* 90 Methomyl Insecticide Water Soluble Powder.	....do	8/2/78
TX 79 0004	DuPont Velpar® Gridball® Brush Killer.	E.I. DuPont de Nemours & Co	3/22/79
TX 79 0033	Crop King colloidall Lindane 40%.	Gustafson, Inc	9/27/79
TX 80 0026	Nudrin* 90 Methomyl Insecticide Water Solubel Power.	Shell Chemical	8/8/80
TX 80 0027	Nudrin* 90 1.8 Methomyl Insecticide Solution.	....do	8/8/80
TX 81 0018	Vendex* 4L Mitcide....do	3	3/17/81
TX 81 0029	Pydrin* Insecticide 2.4 Emusilbie Concentrate.	....do	5/14/81

Special local need Reg. No.	Product name	Registrant	Date registered
TX 83 0015	Pydrin* Insecticide 2.4 Emulsible Concentrate.	....do	6/16/83
	Utah		
UT 78 0005	Mertact LSP	Gustafson, Inc	6/6/78
UT 78 0009	Ortho Paraquat CL	Ortho Chevron Chem. Co	11/27/78
UT 79 0011	DuPont Lannate® Insecticide	E.I. DuPont de Nemours & Co	6/4/79
UT 79 0017	DuPont Lannate® L Insecticide	....do	10/11/79
UT 79 0021	Gustafson Colloidal Lindane 40%.	Gustafson, Inc	11/28/79
UT 79 0022	DuPont Lexone® DF Weed Killer.	E.I. DuPont de Nemourts & Co	12/28/79
UT 79 0023	DuPont Lexone® 4L Weed Killer.	....do	12/28/79
UT 79 0024	DuPont Lexone® Weed Killer	....do	12/28/79
UT 80 0007	Orthene Forest Spray	Ortho Chevron	6/9/80
UT 81 0006	DuPont Lexone® Weed Killer	E.I. DuPont de Nemours & Co	3/6/81
UT 81 0007	DuPont Lexone® 4L Weed Killer.	....do	3/6/81
UT 81 0008	DuPont Lexone® DF Weed Killer.	....do	3/6/81
UT 81 0011	Buctril	Rhone-Poulenc, Inc	4/7/81
	Virginia		
VA 78 0009	Nudrin* 90 Methomyl Insecticide Water Soluble Powder.	Shell Chemical	4/10/78
VA 80 0005	Gustafson 42-S Thiram	Gustafson, Inc	3/7/80
VA 80 0006	Vitavax-30C Concentrate	....do	3/7/80
VA 80 0007	Bortran 30C	Gustafson, Inc	3/7/80
VA 81 0008	Nudrin* 1.8 Methomyl Insecticide Solution.	Shell Chemical	3/10/81
VA 81 0009	Nudrin* 90 Methomyl Insacticide Water Soluble Powder.	....do	3/10/81
	Washington		
WA 76 0004	Surflan 75 W	Elanco	4/1/76
WA 77 0001	MGH Big Game Repellent BGR-W.	MGK McLaughlin Gormley King Co	1/18/77
WA 77 0002	Orthene Tree and Ornamental Spray.	Ortho Chevron Chem. Co	2/4/77
WA 77 0005	Amchem 2,4,5-TP	Union Carbide	3/16/77
WA 77 0006	Envert-DT	....do	3/16/77
WA 77 0007	Weedone IBK	....do	3/16/77
WA 77 0008	Weedone 2,4,5-T Special Air Spray.	....do	3/16/77
WA 77 0013	Ortho Paraquat CL	Ortho Chevron Chem. Co	4/5/77
WA 77 0019	Asulox	Rhone-Poulenc, Inc	6/6/77
WA 77 0020	Nudrin* 1.8 Insecticide Solution	Shell Chemical	6/14/77
WA 77 0023	DuPont Lannate® L Insecticide	E. I. DuPont de Nemours & Co	6/17/77
WA 77 0024	DuPont Lannate® Insecticide	....do	6/17/77
WA 77 0036	DuPont Benlate® Fungicide	E.I. DuPont de Nemours & Co	7/7/77
WA 77 0061	DuPont Lannate® Insecticeide	....do	12/22/77
WA 77 0062	DuPont Lannate® L Insecticide	....do	12/22/77
WA 78 0012	Modown 80% WP	Rhone-Poulenc, Inc	3/27/78
WA 78 0019	Nudrin* 90 Methomyl Insecticide.	Shell Chemical	4/12/78
WA 78 0022	Nudrin* 1.8. Insecticide Solution.	....do	4/12/78
WA 78 0023	Nudrin* 90 Methomyl Insecticide.	....do	4/12/78
WA 78 0055	Bladex* 80 W Herbicide	....do	10/4/78
WA 82 0048	Pydrin* Insecticide 2.4 Emulsible Concentrate.	....do	7/26/82
	West Virginia		
WV 78 0007	Roundup®	Monsanto Co	6/14/78
WV 80 0002	DuPont Velpar® Gridball® Brush Killer.	E.I. DuPont de Nemours & Co	3/17/80
WV 80 0004	Forlin 20% Lindane EC	Forshaw Chemicals	5/6/80
WV 81 0006	DuPont Velpar® Gridball® 1CC Brush Killer.	E.I. DuPont de Nemours & Co	4/24/81
WI 77 0001	DuPont Lannate® Insecticide	E.I. DuPont de Nemours & Co	2/28/77
WI 77 0002	DuPont Lannate® L Insecticide	....do	2/28/77
WI 77 0005	DuPont Lannate® L Insecticide	....do	5/19/79
WI 79 0004	DuPont Benlate® Fungicide	....do	8/3/79
	Wyoming		
WY 78 0003	Roundup®	Monsanto Co	2/27/78
WY 78 0006	Miller's Mosquitocide 700	Chas. H. Lilly Co	4/12/78
WY 78 0010	Bladex* 80 W Herbicide	Shell Chemical	4/21/78

Cancellation of these section 24(c) registrations shall be effective August 31, 1984. Any sale or distribution by the registrant will violate FIFRA section 12(a)(2)(K). EPA will not consider it a violation of FIFRA for distributors other than the registrant to sell or distribute existing stocks of any of these canceled products bearing the section 24(c) label. It should be noted, however, that such sale or distribution may not be permitted by applicable State law.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP 240048]" and the specific section 24(c) registration number. Any comments filed regarding this notice will be available for public inspection in Rm. 236, CM#2, at the above address from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA, as amended, 86 Stat. 973, 89 State. 751 (7 U.S.C. 130))

Dated: July 12, 1984.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs

[FR Doc. 84-19874 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-382; FRL-2642-8]

Certain Companies; Pesticide Tolerance Petitions; American Cyanamid Co., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-382] and the petition number, attention Product Manager (PM-17), at the following address:

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

In person, bring comments to:

Information Services Section (TS-757C), Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Timothy A. Gardner, Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., Washington, D.C. 20460

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202 (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP), food and feed additive (FAP) petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities.

I. Initial Filings

I. PP's 4F3099, 4F3102, 4F3110, and FAP's 4H5436 and 4H5435.

American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.400 (raw agricultural commodities) and 21 CFR Part 193 (animal food commodities), by establishing of tolerances for residues of the insecticide flucythrinate[±-cyano (3-phenoxyphenyl)methyl(+-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate in or on the following commodities:

Petition ID	CFR affected	Commodities	Parts per million (PPM)
PP 4F3099	40 CFR 180.400	Potato tubers	0.05
PP 4F3102	40 CFR 180.400	Soybean seed	0.05
PP 4F3110	40 CFR 180.400	Field Corn grain	0.05
FAP 4H5436	21 CFR 561.435	Field Corn forage	0.05
		Field Corn fodder (stoner)	1.0
		Field Corn silage	0.05
		Sweetcorn cannery waste	1.0
		Sweetcorn forage	13.0
FAP 4H5435	21 CFR 193.99	Soybean oil, refined	0.10

The proposed analytical method for determining residues is gas chromatography.

2. PP 4F3103.

Zoecon Corporation, 975 California Ave., Palo Alto, CA 94304. Proposes amending 40 CFR 180.359 by establishing tolerance for the residues of the insecticide methoprene [isopropyl (*E,E*)-11-methoxy-3,7,11-tri-methyl-2,4-dodecadienoate] in or on the commodities as follows:

Commodities	Parts per million (ppm)
Barley	10.0
Buckwheat	10.0
Corn (all types)	10.0
Eggs	2.0
Fat of cattle of goats, hogs, horses, and sheep	3.0
Meat and meat by products of cattle, goats, hogs, horses, and sheep	2.0
Milk	2.0
Millet	10.0
Milo (sorghum)	10.0
Oats	10.0
Poultry	2.0
Rice	10.0
Rye	10.0
Sunflower	10.0
Wheat	10.0

The proposed analytical method for determining residues is gas chromatography.

II. Amended Petitions

1. PP 4F2969.

American Cyanamid Co. EPA issued a notice published in the **Federal Register** of November 30, 1983 (48 FR 54116) which announced that American Cyanamid Co. had submitted pesticide petition (PP) 4F2969 to the Agency proposing to amend 40 CFR 180.400 by establishing a tolerance for residues of the insecticide flucythrinate in or on cabbage at 1.5 ppm.

American Cyanamid Co. has amended the petition by increasing the tolerance from 1.5 ppm to 2.0 ppm. The proposed analytical method for determining residues is gas chromatography.

2. PP 3F2937.

American Cyanamid Co. EPA issued a notice published in the **Federal Register** of September 7, 1984 (48 FR 40432) which announced that American Cyanamid Co. had submitted pesticide petition (PP) 3F2937 to the Agency proposing to amend 40 CFR 180.400 by establishing a tolerance for residues of the insecticide flucythrinate in or on lettuce (head and leaf) at 2.0 ppm.

American Cyanamid Co. has amended the petition by decreasing the tolerance

on lettuce, head from 2.0 ppm to 1.0 ppm. The proposed analytical method for determining residues is gas chromatography.

(Secs. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)), 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(11))

Dated: July 20, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-20114 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-05-M

[PF-384; FRL-2642-7]

Certain Companies; Pesticide Tolerance Petitions; Chevron Chemical Co., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-384] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

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

In person, bring comments to:

Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location and telephone number	Address
PM-16, William Miller.	Rm. 211, CM#2, (703-557-2600).	EPA, 1921 Jefferson Davis, Hwy., Arlington, VA 22202.
PM-25, Robert Taylor.	Rm. 251, CM#2, (703-557-1800).	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and feed additive (FAP) petitions relating to the establishment to tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

I. Initial Filings

1. *PP 4F3068.* Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. Proposes amending 40 CFR 180.315 by establishing a tolerance for residues of the insecticide methamidophos in or on safflower seeds at 0.2 part per million (ppm). The proposed analytical method for determining residues is gas chromatographic procedure utilizing a thermionic detector. (PM-16).

2. *PP 4E3083.* Woolfolk Chemical Works, Inc., P.O. Box 938 Fort Valley, GA 31030. Proposes amending 40 CFR Part 180 by establishing tolerances for the residues of the herbicide (2-chloroethyl) methylbis (phenylmethoxy) silane in or on olives at 0.1 ppm. The analytical method for determining residues is gas liquid chromatography. (PM-25).

3. *PP4F3097.* Rohm & Haas, Independence Mall, West Philadelphia, PA 19105. Proposes amending 40 CFR 180.317 by establishing a tolerance for residues of the herbicide 3,5-dichloro-*N*-(1,1-dimethyl-2-propynl) benzamide in or on the commodity grass; forage, fodder and hay at 10.0 ppm. The proposed analytical method for determining residues is gas chromatography with an electron capture detector. (PM-25).

4. *FAP 4H5439.* Velsicol Chemical Corp., 347 East Ohio St., Chicago, IL 60611. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the herbicide dicamba [3,6-dichloro-o-anisic acid) in or on cottonseed meal at 6.0 ppm. (PM-25).

(Secs. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)), 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))

Dated: July 20, 1984.

Robert V. Brown,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-20115 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-383; FRL-2643-1]

Certain Companies; Pesticide Tolerance Petitions; The Upjohn Co., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to the establishment, correction, and/or amendment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-383] and the petition number, attention Product Manager (PM-12), at the following address:

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

In person, bring comments to:

Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger (PM-12), Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP), and feed additive petitions (FAP) relating to the establishment, correction, and/or amendment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

I. Initial Filings

1. *FAP 2H5353.* The Upjohn Company, Kalamazoo, MI 49001. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide amitraz (*N*'[2,4-dimethyl]-*N*-[[2,4-dimethylphenyl)-imino]-imino]methyl]-*N*-methylmethanimidamide) and its metabolites containing the 2,4-dimethylaniline moiety (calculated as parent compound) in or on dried apple pomace at 35.0 parts per million (ppm).

2. *PP 2F2705.* The Upjohn Co. proposes amending 40 CFR Part 180 by establishing tolerances for the above mentioned insecticide and its metabolites in or on apples at 3.0 ppm. The proposed analytical method for determining residues is gas chromatography.

3. *FAP 3H5412.* Nor-Am Chemical Co., (formerly BFC Chemicals, Inc.) 4311 Lancaster Pike, Wilmington DE 19805. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide 3,6-bis-(2-chlorophenyl)-1,2,4,5-tetrazine in or on dried apple pomace at 20.0 ppm.

II. Correction

EPA issued a notice, published in the **Federal Register** of June 22, 1983 (48 FR 28548), which announced that ICI Americas, Wilmington, DE 19898, had filed a feed additive petition for the combined residues of the insecticide pirimiphosmethyl (*O*-(2-diethylamino-6-methyl-pyrimidin-4-yl) *O,O*-dimethylphosphorothioate and free its metabolites *O*(2-ethylamino-6-methyl-pyrimidin-4-yl) *0,0*-dimethylphosphorothioate and conjugated form; 2-diethylamno-6-methyl-pyrimidin-4-ol, 2-ethylamino-6-methyl-pyrimidin-4-ol and 2-amino-6-methyl-pyrimidin-4-ol in or on the commodities rice hulls at 60.0 parts per million (ppm); rice and wheat milling fractions at 50.0 ppm; and wheat gluten at 30.0 ppm.

In the FR Doc. 83–16705, appearing at 28549, the feed additive petition (FAP) number in item 4 under INITIAL FILINGS was inadvertently filed as "FAP 3H5398" and is corrected to read "FAP 3H5399".

III. Amended Petitions

1. FAP 3H5399.

ICI Americas. EPA issued a notice, published in the **Federal Register** of June 22, 1983 (48 FR 28548), which announced that ICI Americas filed a feed additive petition (FAP 3H5399) (see unit II above) for the combined residues of the insecticide pirimiphos-methyl and its metabolites.

ICI Americas has amended FAP 3H399 by:

a. Increasing the tolerance for rice milling fractions from 50.0 ppm to 60.0 ppm and;

b. Adding the commodities corn oil at 90.0 ppm, and sorghum milling fractions (except flour) at 50.0 ppm.

2. PP 3F2896.

ICI Americas. EPA issued a notice, published in the **Federal Register** of June 22, 1983 (48 FR 28548), which announced that ICI Americas had filed pesticide petition (PP) 3F2896 with the Agency proposing to amend 40 CFR Part 180 by establishing to tolerances for the combined residues of the insecticide pirimiphos-methyl and its metabolites in or on the commodities as follow:

Commodities	Parts per million (ppm)
Eggs	0.5
Fat, meat, and mest byproducts (mbyp) of cattle, goats, hogs, horses, and sheep (except liver and kidney)	0.15
Kidney of cattle, goats, hogs, horses, and sheep	2.0
Liver of cattle, goats, hogs, horses, and sheep	1.0
Milk	0.5
Peanut hulls	125.0
Peanuts	25.0
Poultry	4.0

ICI Americas has amended the petition by changing milk at 0.5 ppm to milk, fat (reflecting 0.5 ppm in whole milk) to 1.0 ppm. The proposed analytical method for determinig residues is gas chromatography/mass spectrometry.

3. *PP 2F2715.* Mobay Chemical Corp, Agricultural Chemical Division, P.O. Box 4913, Hawthorn Rd., Kansas City, MO 64120. EPA issued a notice publised in the **Federal Register** of August 25, 1982 (47 FR 37289), which announced that Mobay Chemical Corp. had filed pesticide petition (PP) 2f2715 with the Agency proposing to amend 40 CFR 180.374 by establishing tolerances for residues of the insecticide *O*-ehtyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate and its chloninesterase-inhibiting metabolites in or on the commodities as follows:

Commodities	Parts per million (ppm)
Cattle fat, meat, and mbyp	0.06
Soybeans	0.5
Soybeans, green forage	20.0
Soybean hay	11.9

Mobay amended the petition in the **Federal Register** of December 14, 1983 (48 FR 55622) by increasing the tolerance in or on soybean hay from 11.0 to 15.0 ppm.

Mobay has further amended the petition by:

a. Increasing Cattle fat, meat, and mbyp from 0.06 to 0.01 ppm.

b. Adding; fat, meat, and mbyp of goats, hogs, and horses, and sheep at 0.01 ppm.

c. Proposing a tolerance for milk at 0.01 ppm. The proposed analytical method for determining residues is gas chromatography.

4. *PP 4F2968.* Nor-Am Chemical Co. EPA issued a notice published in the **Federal Register** of December 14, 1983 (48 FR 55622), which announced that BFC Chemical Inc., has submitted pesticide petition (PP) 4F2968 to the Agency proposing to amend 40 CFR 180.287 by establishing tolerances for the combined residues of the insecticide amitraz [*N*' (2,4-dimethylphenyl)*N*-[[(2,4-dimethylphenyl) imino]methyl]-*N*-methylmethanimidamide] and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in or on the following commodities:

Commodities	Parts per million (ppm)
Cattle, fat	0.1
Cattle, kidney	0.3
Cattle, liver	0.2
Cattle, meat and mbyp	0.05
Milk (excluding fat)	0.02
Milk, fat	0.2

Nor-Am Chemical Co. has amended the petition by:

a. Increasing Cattle, mbyp from 0.05 ppm to 0.3 ppm.

b. Decreasing Milk from 0.02 ppm to 0.03 ppm.

c. Decreasing Milk, fat from 0.2 ppm to 0.3 ppm.

The proposed analytical method for determining residues is gas-liquid chromatography.

(Secs., 408(d)(2) 68 STat. 512, (21 U.S.C. 346a(d)(2)), 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: July 20, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-20113 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

[PP 3G2921/T459; FRL-2642-2]

Albany International; Establishment of Exemptions From the Requirement of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established exemptions from the requirement of tolerances for residues of the biological insecticides Z-11-hexadecanal and (Z)-9-tetradecenal in or on certain raw agricultural commodities.

DATE: These temporary exemptions from the requirement of tolerances expire April 6, 1985.

FOR FURTHER INFORMATION CONTACT: By mail: Timothy Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2690)

SUPPLEMENTARY INFORMATION: Albany International, Controlled Release Divison, 110 A Street, Needham Heights, MA 02194, has requested in pesticide petition PP 3G2921 the establishment of exemptions from the requirement of tolerances for residues of the biological insecticides Z-11-hexadecanal and (Z)-9-tetradecenal in or on the raw agricultural commodities white corn and sweet corn.

These temporary exemptions from the requirement of tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 36638-EUP-7, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the exemptions from the requirement of tolerances will protect the public health. Therefore, the temporary exemptions from the requirement of tolerances has been established on the condition that the pesticides be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredients to be used must not exceed the quantity authorized by the experimental use permit.

2. Albany International must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary exemptions from the requirement of tolerances expire April 6, 1985. Residues remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticides are legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemptions from the requirement of tolerances. These temporary exemptions from the requirement of tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necesary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, U.S.C. 346a(j)))

Dated : July 20, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-20106 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2441/T458; FRL 2642-6]

American Hoechst Corp.; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for the combined residues of the insecticide [1R [1 (S*) (RS*)][[-]],2-dimethyl-3 (1,2,2,2-tetrabromoethyl)cyclopropanecarboxylic acid alpha-cyano-3(3-phenoxyphenyl) methyl ester and its metabolite in or on the raw agricultural commodity cottonseed.

DATE: This temporary tolerance expires April 27, 1985.

FOR FURTHER INFORMATION CONTACT: By mail: Timothy A. Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 207, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the **Federal Register** of May 4, 1983 (48 FR 20134), announcing the extension of a temporary tolerance for the combined residues of the insecticide [1R [1 (S*) 3 (RS*)]]-2,2-dimethyl-3 (1,2,2,2-tetra-bromoethyl)cyclopropanecarboxylic acid alhpa-cyano-3(3-phenoxy-phenyl) methyl ester and its metabolite (1R, 3R) 3-(2,2-dibro-movinyl)-2,2-dimethylcyclopropanecarboxylic acid (S) alpha-cyano-3(3-phenoxphenyl) methyl ester in or on the raw agricultural commodity cottonseed at 0.02 part per million (ppm). This tolerance was issued in response to pesticide petition PP 1G2441, submitted by American Hoechst Corporation, Agricultural Division, Route 202-206 North, Somerville, NJ 08876.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 8340-EUP-6, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Hoechst Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company

must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires April 27, 1985. Residue not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

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

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: July 20, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–20116 Filed 7–31–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–31063C; FRL–2642–4]

Fibre Treatments Ltd.; Approval of Pesticide Product Registration Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects the chemical identification and the active ingredient percentages in the approved conditional registration of the disinfectant Wipex involving a changed use pattern, by Fibre Treatments Ltd.

FOR FURTHER INFORMATION CONTACT: By Mail: Product Manager (PM) 32, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 244 CM No. 2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–3965).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of June 6, 1984 (49 FR 23443), which approved an application by Fibre Treatments Ltd., to conditionally register for a changed use pattern, the disinfectant Wipex, EPA Registration Number 50096–1.

In FR Doc. 84–14825 of June 6, 1984, appearing at page 23443, third column, under **SUPPLEMENTARY INFORMATION,** lines 14 through 17, the chemical identification and the active ingredient percentages are corrected to read: "poly(iminoimidocarbonyliminoimidocarbonyliminohexamethylene) hydrochloride at 3.17 percent and alkyl (C_{14}50%C_{12}40%C_{16}10%) dimethyl benzyl ammonium chloride at 7.11 percent".

A copy of the approved label and the list of data references used to support registration are available for public inspection in the Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency Rm. 236, CM No. 2, Arlington, VA 22202 (703–557–3262) within 30 days after registration date in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(4)(5) FIFRA, as amended)

Dated: July 21, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84–20118 Filed 7–31–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Republic Cruise Line, Inc. and Clipper, Cruise Line, Inc., c/o Clipper Cruise Line, 7711 Bonhomme Ave., St. Louis, Missouri 63105.

Dated: July 27, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–20308 Filed 7–31–84; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Special Expeditions, Inc. and Lindblad Travel, Inc., c/o Special Expeditions, Inc., 133 East 55th Street, New York, New York 10022.

This Certificate expires April 20, 1985.

Dated: July 27, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–20309 Filed 7–31–84; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Norwegian Caribbean Lines A/S d/b/a Norwegian Caribbean Lines and K/S A/S Sunward II and A/S Sunward II, c/o Norwegian Caribbean Lines, One Biscayne Tower, 30th Floor, Miami, Florida 33131.

Dated: July 27, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–20306 Filed 7–31–84; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Norwegian Caribbean Lines A/S d/b/a Norwegian Caribbean Lines, One Biscayne Tower, 30th Floor, Miami, Florida 33131.

Dated: July 27, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–20307 Filed 7–31–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

New Central Colorado Company and C.C.B., Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies, and Acquisition of Nonbanking Company

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (49 *FR* 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (49 *FR* 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 *FR* 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 24, 1984.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *New Central Colorado Company and C.C.B., Inc.*, both of Denver, Colorado, to acquire 95 percent of the voting shares of Central Bancorporation, Inc., Denver, Colorado, and thereby indirectly acquire the banks below, in the cities listed, all in the state of Colorado: Central Bank of Academy Boulevard, Colorado Springs; Central Bank of Aurora, Aurora; Central Bank of Broomfield, Broomfield; Central Bank of Chapel Hills, N.A., Colorado Springs; Central Bank of Chatfield, Littleton; Central Bank of Colorado Springs, Colorado Springs; Central Bank of Denver, Denver; Central Bank of Greeley, Greeley; Central Bank of Inverness, N.A., Englewood; Central Bank of North Denver, Denver; Central Bank of Pueblo, N.A., Pueblo; Central Bank of Stapleton, N.A., Denver; First National Bank in Aspen, Aspen; First National Bank in Battlement Mesa, Battlement Mesa; First National Bank of Craig, Craig; First National Bank in Glenwood Springs, Glenwood Springs; First National Bank of Grand Junction, Grand Junction; First National Bank-North in Grand Junction, Grand Junction; Rocky Ford National Bank, Rocky Ford; Central Bank of East Aurora, N.A. (in organization), Aurora, Central Bank of Centennial, N.A. (in organization), Littleton; Central Bank of Garden of the Gods, N.A. (in organization), Colorado Springs; and Central Bank of Westminster, N.A. (in organization), Westminster. Applicants here also applied to engage through their subsidiary, Central Bancorp Life Insurance Company, Denver, Colorado, in the activity of reinsuring credit life and accident and health insurance sold in conjunction with consumer loans made at the subsidiary banks of Central Bancorporation, Inc. These activities are to be conducted in the Colorado Counties of El Paso, Denver, Adams, Arapahoe, Jefferson, Boulder, Weld, Pitkin, Garfield, Mesa, Douglas, Pueblo, Moffat and Otero.

Board of Governors of the First Reserve System, July 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–20247 Filed 7–31–84; 8:45 am]

BILLING CODE 6210–01–M

QNB Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 23, 1984.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *QNB Corp.*, Quakertown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Quakertown National Bank, Quakertown, Pennsylvania.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Holcomb Bancorp, Inc.*, Holcomb, Illinois; to become a bank holding

company by acquiring 80 percent or more of the voting shares of Holcomb State Bank, Holcomb, Illinois. Comments on this application must be received not later than August 22, 1984.

2. *Village Banc Holding Co., Inc.*, Elm Grove, Wisconsin; to become a bank holding company by acquiring 89 percent or more of the voting shares of Village Bank of Elm Grove, Elm Grove, Wisconsin.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Farmers Bancshares, Inc.*, Valmeyer, Illinois; to become a bank holding company by acquiring 98 percent of the voting shares of Farmers State Bank of Valmeyer, Valmeyer, Illinois; and 81.3 percent of the voting shares of First State Bank of Patoka, Patoka, Illinois.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Heron Lake Bancorporation, Incorporated*, Heron Lake, Minnesota; to become a bank holding company by acquiring at least 87.9 percent of the voting shares of Heron Lake State Bank, Heron Lake, Minnesota.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Central Bancorporation, Inc., Central Colorado Company, and C.C.B., Inc.*, all of Denver, Colorado; to acquire 100 percent of the voting shares or assets of Central Bank of Garden of the Gods, N.A., El Paso County, Colorado and Central Bank of Westminster, N.A., Westminster, Colorado.

2. *Mount Hope Bancshares, Inc.*, Mount Hope, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First National Bank of Mount Hope, Mount Hope, Kansas.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas, 75222:

1. *Frontier National Bancshares Corporation*, Round Rock, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Frontier National Bank, Round Rock, Texas.

G. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Northern Empire Bancshares*, Santa Rosa, California, to become a bank holding company by acquiring 100 percent of the voting shares of Sonoma National Bank, Santa Rosa, California.

Board of Governors of the Federal Reserve System, July 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-20246 Filed 7-31-84; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp.; Correction of Notice Regarding Proposed Acquisition of Company Engaged in Nonbanking Activities

This notice corrects a previous **Federal Register** document (FR Doc. No. 84-10771), published at page 17093 of the issue for April 23, 1984. Security Pacific Corporation, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §§ 225.23(a) (2) and (3) of the Board's Regulation Y (49 FR 794), for permission to acquire Duff and Phelps, Inc., Chicago, Illinois, and Duff and Phelps Investment Management Co., Cleveland, Ohio, a company engaged in nonbanking activities. Such activities will be conducted throughout the United States. When this application was previously published for comment, the notice stated that all of the proposed activities were listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Upon further examination of the application, however, it became apparent that two of the proposed activities, financial consulting (including corporate valuation services, financial feasibility studies, and financial consulting for utilities), and acquisition/divestiture advisory services, had not previously been held by the Board to be closely related to banking. The Board, therefore, is republishing notice of this application in order to solicit comments on these activities.

Security Pacific has also applied to engage, through its proposed subsidiaries, to engage in the following nonbanking activities listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies: investment research regarding utilities, industrial firms, financial organizations, and technological and energy companies; credit ratings; and investment management services. The Board is not inviting further comment on these proposed activities.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Interested persons may express their views in writing on whether the proposed activities of financial consulting and providing acquisition/divestiture advisory services are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether consummation of the acquisition as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 25, 1984.

Board of Governors of the Federal Reserve System, July 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-20248 Filed 7-31-84; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

July 27, 1984.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along

with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before August 13, 1984.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Judith McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829).

Request for Extension With Minor Revisions

1. Report title: Report of Condition for Foreign Organizations Controlled by Member Banks, Edge and Agreement Corporations, and Bank Holding Companies

Agency form number: FR 2314
OMB Docket number: 7100–0073
Frequency: Quarterly
Reporters: Member banks, Edge and Agreement Corporations, and Bank Holding Companies
Small businesses are not affected.

General description of report: Respondent's obligation to reply is mandatory (12 U.S.C. 324, 602, 605, and 1844(c)); a pledge of confidentiality is promised (5 U.S.C. 552(b)(8)).

This report provides the only source of comprehensive and systematic data on the assets and liabilities of foreign subsidiaries of U.S. banking institutions. The data are used to monitor the growth and activity of the subsidiaries and to supervise the overall operations of the parent institutions. The revisions made to this report are minor and reflect changes to the U.S. commercial bank Reports of Condition and Income, which were effective beginning with the March 1984 reports.

Board of Governors of the Federal Reserve System, July 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–20339 Filed 7–31–84; 8:45 am]

BILLING CODE 6210–01–M

First Florida Banks, Inc. and 7L Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 24, 1984.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Florida Banks, Inc.*, Tampa, Florida and *7L Corporation*, Tampa, Florida; to acquire 85 percent of the voting shares of Financial Growth Systems Incorporated, Inverness, Florida.

2. *Liberty Shares, Inc.*, Hinesville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Hinesville Bank, Hinesville, Georgia.

3. *MidSouth Bancorp, Inc.*, Lafayette, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of MidSouth National Bank, Lafayette, Louisiana, a *de novo* bank.

Board of Governors of the Federal Reserve System, July 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–20338 Filed 7–31–84; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements; Preventive Health Services; Study of Patients Transfused With Blood From Persons With Acquired Immunodeficiency Syndrome (AIDS) or Related Conditions; Availability of Funds for Fiscal Year 1984

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1984 for cooperative agreements for a collaborative study of patients transfused with blood products from persons with Acquired Immunodeficiency Syndrome (AIDS) or related conditions. This program is authorized by section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The Catalog of Federal Domestic Assistance Number is 13.118. Office of Management and Budget clearance may be required for this project.

The objectives of this program are to assist cities and/or counties to study the risk of acquiring AIDS for people transfused with blood or blood components donated by persons who subsequently developed AIDS or related conditions, or were infected with the putative agent for AIDS.

Eligible applicants for this programs are the official public health agencies of a city or county government or multi-county health agency which have reported to CDC, by June 30, 1984, at least 300 AIDS patients that meet the CDC surveillance case definition or 20 donors who have developed AIDS or AIDS related conditions. (The CDC surveillance case definition requires that patients be less than 60 years of age and have biopsy-proven Kaposi's sarcoma and/or biopsy-proven or culture-proven infection at least moderately predictive of cellular immunodeficiency. Excluded as cases are patients who either received immunosuppressive therapy before the onset of illness or had pre-

existing illnesses associated with immunosuppression.)

The collaborative and programmatic involvement of recipients of funds and CDC is as follows:

1. *Recipient Health Department Activities.*

a. Identify patients with AIDS or AIDS-related conditions or persons infected with the causative agents who have donated blood before the onset of their illness.

b. Design, in collaboration with CDC, an epidemiologic study protocol and information collection procedures for studying individuals inadvertently receiving blood and blood components donated by persons who subsequently developed AIDS.

c. Develop procedures for identifying, contacting, and scheduling blood or blood component recipients and a suitable control group of blood recipients for evaluation, interviewing, physical examinations, and obtaining biological specimens for processing either locally or at CDC. It is expected that physical examinations and collection of specimens will be repeated every 6 months for 3–5 years.

d. Collaborate with CDC in the analysis, presentation, and publication of study results.

2. *Centers for Disease Control Activities.*

a. Collaborate with health departments in developing the study protocol and designing the information collection plan.

b. Provide training of project personnel to conduct interviews and epidemiological followup.

c. Perform laboratory studies on selected specimens obtained from study participants.

d. Provide information processing and assistance in the analyses, presentation, and publication of study findings.

Progress reports of cooperative agreement activities will be submitted by receipients of funds on a semiannual and annual basis. Annual financial status reports are required. All reports shall be submitted in accordance with 45 CFR Part 74, Subparts I & J, respectively.

Subject to the availability of funds, it is anticipated that approximately $400,000 will be available to fund three cooperative agreements in Fiscal Year 1984. Individual awards are expected to range from $50,000 to $200,000. Application should be submitted for a 1-year budget period and 1- to 5-year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outline above may vary and are subject to change due to budgetary uncertainties. Cooperative agreement funds may be used to support personnel and to purchase supplies and services directly related to conducting a study of patients transfused with blood from persons with AIDS or related conditions. Funds may not be used to support construction or renovation costs.

Evaluation and ranking of applications will be based on the following factors:

1. Number of AIDS patients reported since June 1981 meeting the CDC surveillance case definition, and the number of AIDS cases or the number of patients with AIDS related conditions (e.g., lymphadenopathy) or infected with the AIDS causative agent identified as having donated blood.

2. Applicant's understanding of the problem and the purpose of the AIDS cooperative agreement.

3. Details on how the applicant plans to implement a cohort study of people inadvertently transfused with blood or blood components donated by persons who subsequently developed AIDS or AIDS-related conditions, including information about how the donors and recipients will be identified, located, interviewed, and tested.

4. How the health department will work with area blood centers on this study, including specific responsibilities of the health department and the blood centers and proposed financial arrangement.

5. How the applicant will identify and follow a suitable control group of blood recipients.

6. How the applicant intends to identify and document an estimated sample size of potential recipients over a 12-month period and identify collaborating blood centers where blood was obtained.

7. Plan for notifying blood centers of potentially contaminated blood.

8. Letters of support obtained and provided from appropriate blood centers and others.

9. The size, qualification, and time allocation of the proposed staff, and the availability of facilities to be used during the study.

10. How the project will be administered.

11. A proposed schedule for accomplishing the activities of the cooperative agreement, including timeframes.

Applications must include a narrative which summarizes:

1. The background and need for project support, including information that relates to factors by which the applications will be evaluated.

2. The objectives of the proposed project which are consistent with the purpose of the cooperative agreement and which are measurable and time-phased.

3. The methods which will be used to accomplish the objectives. (Of special importance will be the methods used to identify, contact, schedule for interview, and collect biologic specimens from donors, recipients, and controls.)

4. The methods which will be used to evaluate the success of study components.

5. Fiscal information pursuant to utilization of awarded funds in a manner consistent with the purpose and objectives of the project.

6. Any other information that will support the request for assistance.

The original and two copies of the application must be submitted to Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, on or before 4:30 p.m., local prevailing time, on August 22, 1984.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

3. *Late Applications.* Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications and will not be considered in the current competition.

Applications are subject to the review requirements of the National Health Planning and Resource Development Act of 1974, as amended, but are not subject to intergovernmental review required by Executive Order 12372.

Information on application procedures, copies of application forms, and other material may be obtained from Leo A. Sanders, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 107A, Atlanta, Georgia 30305, or by calling (404) 262–6575 or FTS 236–6575. Technical assistance may be obtained from James R. Allen, M.D., AIDS Activity, Center for Infectious Diseases, Centers for Disease Control,

Atlanta, Georgia 30333, telephone (404) 329–3472 or FTS 236–3472.

Dated: July 25, 1984.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 84–20311 Filed 7–31–84; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 76N–0325; DESI 3265]

Drugs for Human Use; Pathilon Tablets; Final Order Denying Hearing Request and Withdrawing Approval of Less-Than-Effective Indication

Correction

In FR Doc. 84–19701 beginning on page 30128 in the issue of Thursday, July 26, 1984, make the following correction:

On page 30133, second column, under "V. Findings", second paragraph, seventh line, "approved" should have read "approval".

BILLING CODE 1505–01–M

[Docket No. 81N–0314]

Ad Hoc Review Panel; Sulfiting Agents; Reexamination of GRAS Status; Closed Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming closed meeting of the ad hoc Review Panel on the Reexamination of the GRAS Status of Sulfiting Agents convened by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The Panel will meet in executive session to begin to draft a tentative report on sulfiting agents based on published scientific data and written information submitted to the Panel in response to the notice published in the **Federal Register** of July 9, 1984 (49 FR 27994). Availability of the tentative report will be announced in the **Federal Register** on or before August 17, 1984.

DATE: The closed meeting will be held August 13 and 14, 1984.

ADDRESS: The meeting will be held at the Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Sue Ann Anderson, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 9, 1984 (49 FR 27994), FDA announced its intention to reexamine the generally recognized as safe (GRAS) status of the use of sulfiting agents (potassium metabisulfite, sodium bisulfite, sodium metabisulfite, potassium bisulfite, sodium sulfite, and sulfur dioxide) as direct human food ingredients. FDA also announced that the Life Sciences Research Office of FASEB has established the ad hoc Review Panel on the Reexamination of the GRAS Status of Sulfiting Agents upon the recommendation of the Scientific Steering Group for FASEB's contract with FDA [No. 223–83–2020]. This ad hoc Review Panel is examining all relevant scientific data that bear on the human health effects of sulfiting agents. The ad hoc Review Panel is composed of former members of the Select Committee who were involved in the first review and evaluation of the GRAS status of sulfiting agents and other experts. A list of the members of the Panel may be obtained by writing to the contact person for FASEB, Sue Ann Anderson, at the address given above.

In accordance with 21 CFR 14.15(b)(1), notice is given that the ad hoc Review Panel will hold a closed meeting on August 13 and 14, 1984, to begin to draft a tentative report on sulfiting agents based on published scientific data and written information submitted to the Panel in response to the July 9, 1984 announcement. Availability of the tentative report will be announced in the **Federal Register** on or before August 17, 1984.

Dated: July 26, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–20238 Filed 7–27–84; 10:56 am]

BILLING CODE 4160–01–M

[Docket No. 84N–0146]

Federation of American Societies for Experimental Biology; Closed Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming closed meeting of the Federation of American Societies for Experimental Biology's (FASEB) Scientific Steering Group on the Use of Scientific Expertise in Food and Cosmetic Safety Analyses (Scientific Steering Group). The Scientific Steering Group will meet in executive session to review progress on Task Orders initiated since June 1, 1984, in conjunction with a contract FDA has with FASEB concerning the use of outside scientific expertise in food and cosmetic safety analyses.

DATE: The closed meeting will be held at 4 p.m., August 14, 1984.

ADDRESS: The meeting will be held at the Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 30, 1984 (49 FR 18358), FDA announced an open meeting of FASEB's Scientific Steering Group. That meeting was held on May 11, 1984. FDA has a contract with FASEB concerning the use of outside scientific expertise in food and cosmetic safety analyses. The objectives of this contract are (1) to provide expert, objective counsel to FDA on general and specific issues of scientific fact and (2) to explore various review mechanisms with respect to their effectiveness and efficiency. FASEB established the Scientific Steering Group to serve FASEB in conjunction with the contract.

In accordance with 21 CFR 14.15(b)(1), notice is given that the Scientific Steering Group will hold a closed meeting in executive session on August 14, 1984, to review progress on Task Orders initiated since June 1, 1984, under the contract.

Dated: July 26, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–20240 Filed 7–27–84; 10:56 am]

BILLING CODE 4160–01–M

Request for Nominations for Voting Members on Public Advisory Committees

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for nine voting members to serve on the Allergenic Products Advisory Committee in FDA's Center for Drugs and Biologics. A notice of establishment of this committee is published elsewhere in this issue of the **Federal Register.**

DATE: Nominations should be received on or before October 1, 1984.

ADDRESS: All nominations for membership should be submitted to Clay Sisk, office of Scientific Advisors and Consultants (HEN–32), Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 208587.

FOR FURTHER INFORMATION CONTACT: Clay Sick, 301–443–443–5455.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for nine voting members on the Allergenic Products Advisory Committee. The function of the committee is to review and evaluate available data concerning the safety, effectiveness, and adequacy of labeling of allergenic biological products or materials that are administered to humans for the diagnosis, prevention, or treatment of allergic or allergic disease, and advise the Secretary, the Assistant Secretary for Health, and the Commissioner of Food and Drugs of its findings regarding the affirmation or revocation of biological product licenses; on the safety, effectiveness, and labeling of the products; on clinical and laboratory studies on such products; on amendments or revisions to regulations governing the manufacture, testing, and licensing of allergenic biological products; and on the quality and relevance of FDA's research programs which provide the scientific support for regulating these agents..

Person nominated for membership shall have adequately diversified experience appropriate to the work of the committee in such fields as allergy, immunology, pediatrics, internal medicine, and biochemistry. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, clinical trials, and/or basic research relevant to the field of activity of the committee. The committee may include one technically qualified member who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. The term of office is 4 years, except that initial appointments will be staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the advisory committee. Nominations shall state that the nominee is willing to serve as a member of the advisory committee and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation or possible sources of conflict of interest.

FDA has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, or physically handicapped candidates.

Dated: July 26, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–20037 Filed 7–31–84; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Intent To Grant Exclusive License

Pursuant to 45 CFR 6.3 and 41 CFR Part 101–4, notice is hereby given of an intent to grant to L-VAD TECHNOLOGY, Inc., an exclusive license to make, use and sell the inventions disclosed and claimed in U.S. Patent No. 3,553,736 for "Auxiliary Ventricle" by Adrian Kantrowitz and Steiner Tjonneland and U.S. Patent No. 3,707,960 for "Balloon Cardiac Assisting Pump Having Intraaortic Electrocardiographic Electrodes" by Paul S. Freed. Copies of the patents may be obtained from the United States Patent and Trademark Office.

The proposed license will have a duration of five (5) years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with 41 CFR 101–4. The Department of Health and Human Services will grant the license unless, within sixty (60) days of this Notice, the Chief of the Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Westwood Building, Room 5A03, Bethesda, MD 20205, receives in writing any of the following, together with necessary supporting documents:

(1) A statement from any person setting forth the reasons why it would not be in the best interest of the United States to grant the proposed license; or

(2) An application for a nonexclusive license to make, use and sell the inventions in the United States, submitted in accordance with the requirements of 41 CFR 101–4.104–2, and the applicant states that he has already brought the invention to practical application, or is likely to do so expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

Authority: 45 CFR 6.3 and 41 CFR Part 101–4.

Dated: July 25, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84–20353 Filed 7–31–84; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Under Secretary

[Docket No. N–84–1424]

Advisory Committee on Contract Document Reform; Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting of the advisory committee on contract document reform.

SUMMARY: The seventh meeting of the Committee on Contract Document Reform has been scheduled for Tuesday, August 28, 1984 at 9:30 a.m. in the Under Secretary's Conference Room (10106) at the Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

The purpose of the meeting is to discuss and analyze suggested amendments to contract document clauses.

This meeting is open to the public. Any interested persons may attend, appear before, or file statements with the Committee. Oral statements may be made at the meeting at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Joseph Lupica, Special Assistant to the Secretary, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Telephone: (202) 755–5713. [This is not a toll-free number.]

Dated: July 26, 1984.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 84–20253 Filed 7–31–84; 8:45 am]

BILLING CODE 4210–32–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, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to establish a new system of records notice. The Minerals Management Service has proposed the establishment of a system of records concerning financial management information for accounting for monies paid and collected and for billing and followup purposes. The records will contain standard information used for budget, accounting, and debt collection purposes and will use automated procedures for entry and transfer of data and financial activity reporting. The system of records is titled "Advanced Budget/Accounting Control and Information System (ABACIS)—Interior, LMS–8", and the notice describing the records is published in its entirety below.

As required by Section 3 of the Privacy Act of 1974 (5 U.S.C. 552a(o)), the Director, Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representatives have been notified of this proposal.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. The Office of Management and Budget requires a 60-day period in which to review proposals for new systems of records. 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 October 1, 1984, will be considered. The 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: July 24, 1984.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

Interior/MMS–8

SYSTEM NAME:

Advanced Budget/Accounting Control and Information System (ABACIS)—Interior, MMS–8.

SYSTEM LOCATION:

Department of the Interior, Minerals Management Service, Office of Administration, Financial Management Division, Mail Stop 632, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All debtors including employees, former employees, persons paying for goods or services, returning overpayments, or otherwise delivering cash, business firms, private citizens and institutions. The record contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorship. Some of the records in the system pertain to individuals and may reflect personal information. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations, other business entities and organizations. These records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, address, amount owed by or to, goods or services purchased, overpayment, check number, date and treasury deposit number, awards, and advances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. 5514 (2) 31 U.S.C. 3511 (3) 5 U.S.C. 5701–09 (4) 31 U.S.C. 3701, 3711, 3717, 3718.

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 to account for monies paid and collected by the Minerals Management Service, Financial Management Division, and for billing and followup. Disclosure outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (4) to the Department of the Treasury to effect payment to Federal, State, and local government agencies, nongovernmental organizations, and individuals; (5) to a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset; and (6) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

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 output in manual form and on microfilm.

RETRIEVABILITY:

Indexed by name and date, appropriation, or fund to be audited.

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 Center in accordance with the fiscal records program approved by GAO, as appropriate, or the applicable GSA General Records Schedule 2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Management Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 632, Reston, Virginia 22091.

NOTIFICATION PROCEDURES:

Inquires regarding the existence of a record should be addressed to the System Manager. A written signed request stating that the individual seeks information concerning his/her records is required. (43 CFR 2.60).

RECORDS 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 must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Debtor, accounting records, individual remitters.

[FR Doc. 84-20244 Filed 7-31-84; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Land Management

[C-39289]

Colorado; Proposed Withdrawal; Opportunity for Public Hearing

AGENCY: Bureau of Land Management Interior.

ACTION: Notice.

SUMMARY: The Department of Energy has filed an application for the withdrawal of 1,491 acres of public land near Grand Junction, Colorado. The application involves three proposed disposal sites for radioactive wastes. This notice will segregate the land for a period of 2 years. During this period, the Department of Energy will prepare the necessary National Environmental Policy Act compliance documentation and justification for Secretarial consideration of the withdrawal application. The withdrawal is requested for a period of 5 years pending permanent Congressional action.

DATE: Comments or requests for hearing should be received by October 30, 1984.

ADDRESS: Correspondence should be addressed to the State Director, 1037-20th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-844-2592.

The Department of Energy proposes that the sites described below be withdrawn for their exclusive use for construction of proposed disposal sites for residual radioactive wastes pursuant to the Uranium Mill Tailings Radiation Control Act of 1978; 92 Stat. 3021, 42 U.S.C. 7901:

Ute Principal Meridian

Cheney Reservoir

T. 3 S., R. 2 E.,
Sec. 11, S½S½NE¼, SE¼SE¼NW¼, E½E½SW¼, and SE¼;
Sec. 12, SW¼SW¼NW¼, and W½W½SW¼;
Sec. 13, NW¼ NW¼NW¼;
Sec. 14, N½N½NE¼, and NE¼NE¼NW¼.

Sixth Principal Meridian

6 and 50 Reservoir

T. 9 S., R. 104 W.,
Sec. 36, lots 1 and 2, S½NW¼, and N½SW¼.

Lucas Mesa

T. 8 S., R. 96 W.,
Sec. 19, lots 3 and 4, S½N½NE¼, S½NE¼, SE¼NE¼NW¼, E½SE¼NW¼, E½SW¼, and SE¼;
Sec. 20, S½NW¼, and SW¼;
Sec. 29, N½NW¼;
Sec. 30, lot 1, N½NE¼, and N½NE¼† NW¼.

The areas described above aggregate approximately 1,491 acres in Mesa County, Colorado.

Effective on the date of publication, these lands are segregated from all forms of appropriation under the public land laws, including the mining laws. The lands remain open to mineral leasing subject to concurrence by the Department of Energy, the Nuclear Regulatory Commission, and the Department of the Interior. The lands will remain open to surface uses which are compatible with the project until the withdrawal is final and until construction is started. The segregative effect of this pending application will terminate 2 years from the date of this publication unless final withdrawal action is taken or the application is terminated prior to that date. Notice of any action will be published in the **Federal Register.**

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the State Director, Colorado State Office.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on this proposed action must submit a written request for a hearing to the Colorado State Director within 90 days from the date of this publication.

If it is determined that a public hearing should be held, notice of the time and place of the hearing will be published in the **Federal Register** at least 30 days prior to the hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual, Section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. The authorized office will also undertake negotiations with the applicant agency to assure that the area sought is the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, and to reach an agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on this application will be published in the **Federal Register.**

Vincent J. Hecker,

Acting Assistant Director.

[FR Doc. 84-20379 Filed 7-31-84; 8:45 am]

BILLING CODE 4310-84-M

[ORE-010763]

Oregon; Proposed Continuation of Withdrawal

Correction

In FR Doc. 84-9822 appearing on page 14594 in the issue of Thursday, April 12, 1984, make the following correction.

In the second column, line 1, "1982" should read "1962."

BILLING CODE 1505-01-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through September 1984

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the **Federal Register** December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of irrigation water in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public

participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the Federal Register February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during July, August, or September of 1984. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of the variety of means being used to inform the public about proposed contractual actions. Individual notice of intent to negotiate, and other appropriate announcements, are made in the Federal Register for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CVP) Central Valley Project
(P–SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(SOFAR) Southern Fork American River

Pacific Northwest Region

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–9011.

1. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

2. Boise Project Board of Control, Boise Project, Idaho-Oregon; Irrigation repayment contract; 22,800 acre-feet of stored water in Arrowrock Reservoir.

3. Brewster Flat, ID, Chief Joseph Dam Project, Washington; Amendatory repayment contract; Land reclassification of approximately 360 acres to irrigable; Repayment obligation to increase by $189,000.

4. Miscellaneous water users, Pacific Northwest Region, Idaho, Oregon and Washington; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

5. Rogue River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

6. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contracts; $1.25 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

7. Washington Water Power Company, Inc., Columbia Basin Project, Washington; Industrial water service contract; 32,000 acre-feet of water per year from Franklin D. Roosevelt Lake for the proposed Creston Powerplant; FR notice published December 11, 1982, Vol. 46, page 60658.

8. Cascade Reservoir water users, Boise Project, Idaho; Irrigation repayment contracts; 57,251 acre-feet of stored water in Cascade Reservoir.

9. Boise Water Corporation, Boise Project, Idaho; Short-term (2 years) M&I water service contract; up to 5,000 acre-feet annually from stored water in Lucky Peak Reservoir.

10. Grandview ID, Yakima Project, Washington; R&B loan repayment contract; $1,054,000 proposed obligation.

11. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (PL 97–293).

Mid-Pacific Region

Bureau of Reclamation (Federal Office Building), 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484–4680.

1. 2047 Drain Water Users Association, CVP, California; Water right settlement contract.

2. Tuolumne Regional Water District, CVP, California; Water service contract; 3,200 acre-feet from New Melones Reservoir.

3. Calaveras County Water District, CVP, California; Water service contract; 500 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

4. Miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

5. Mountain Gate Community Services District, CVP, California; Amendatory water service contract providing for increased M&I use to the community of Mountain Gate.

6. Pacheco Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

7. City of Redding, CVP, California; Agreement for operation of the City of Redding's Lake Redding Power Project and resolution of potential impacts on Keswick Powerplant.

8. South San Joaquin ID and Oakdale ID, CVP, California; Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

9. San Luis Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

10. The Westside ID, CVP, California; Amendment to existing water service contract to provide for transportation of district-owned water rights through the Delta-Mendota Canal.

11. Solano ID, Solano Project, California; Amendatory loan repayment contract providing for reconveyance and M&I water supply delivery.

12. Lindsay-Strathmore ID, CVP, California; Amendatory water service contract providing for M&I use to the city of Lindsay.

13. Yuba County Water Agency, South County Irrigation Project, SRPA, California; Loan repayment contract, $18,500,000 proposed obligation.

14. ID's and similar water user entities; Amendatory repayment and water service contracts, including the amending of approximately ten SRPA contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

15. United Water Conservation District, SRPA, California; Loan repayment contract, $18,730,000 proposed obligation.

16. State of Hawaii, Molokai Project, SRPA; Contract amendment to provide for use of facilities for M&I purposes.

17. Shasta Dam Area Public Utility District, CVP, California; Amendatory water service contract providing for increased M&I use to the district.

18. P-Canal Mutual Water Company, Klamath Project, Oregon/California; Temporary 1-year water service contract for 18,000 acre-feet of surplus project water while negotiations continue for a permanent contract.

19. County to San Benito, San Felipe Division, CVP, California; Repayment contract to provide recreation facilities; Cost of recreation development will be shared 50% Federal/50% County (Pub. L. 89–72); County's repayment obligation will be $150,000.

Upper Colorado Region

Bureau of Reclamation, P.O. Box 11568 (125 South State Street), Salt Lake City, UT 84147, telephone (801) 524–5435.

1. Miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

2. Fontenelle Dam (Chevron) State of Wyoming, Seedskadee Project, Wyoming; Water sales contract for 22,500 acre-feet per year for industrial use. Environmental Impact Statement under preparation; approval pending outcome and compliance with Section 7, Endangered Species Act.

3. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado; Water service contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation.

4. La Plata Conservancy District, Animas-La Plata Project, New Mexico; Water service contract; 16,000 acre-feet per year for irrigation.

5. City of Farmington, Animas-La Plata Project, New Mexico; M&I water service contract; 19,700 acre-feet per year.

6. City of Aztec, Animas-La Plata Project, New Mexico; M&I water service contract; 5,800 acre-feet per year.

7. City of Bloomfield, Animas-La Plata Project, New Mexico; M&I water service contract; 5,300 acre-feet per year.

8. Preston-Whitney Irrigation Company, North Cache Water Development Project, Idaho; SRPA; Repayment contract for $26,000,000; Federal loan to convert open ditch system with individual pumps for sprinkler pressurization to a closed pipe gravity pressurized system.

9. Central Utah Project, Bonneville Unit, Utah; Supplemental M&I repayment contract for 99,000 acre-feet per year; Negotiations anticipated to be reactivated; FR notice published August 22, 1980, Vol. 45, No. 165, page 56199.

10. Central Utah Project, Bonneville Unit, Utah; $34,000,000 D&MC Contract—Duchesne River Area Canals rehabilitation to meet 1987 construction commitment. Repayment covered under executed repayment contract.

11. Strawberry Valley R&B, Rehabilitation of the Spanish Fork Diversion Structure and Strawberry Power Canal. Loan amount $7,254,000; FR notice published April 11, 1984, Vol. 49, No. 71, page 14451.

12. Dorchester Coal Company, Blue Mesa Reservoir, Colorado, Colorado River Storage Project; M&I water service contract, 400 acre-feet per year, for 40 years.

13. Miscellaneous water users, Upper Colorado Region, Blue Mesa Reservoir, Colorado River Storage Project, Colorado, M&I uses, 20-acre feet and less for 20 years.

14. ID's and similar water user entities; Amendatory repayment and water service contract; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Lower Colorado Region

Bureau of Reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, NV 89005, telephone (702) 293–8536.

1. Wellton-Mohawk Irrigation and Drainage District, Gila Project, Arizona; D&MC contract for channelization of the Gila River; $3,981,613 obligation.

2. Agricultural and M&I water users, CAP, Arizona; Water service subcontracts; A certain percent of available suppy for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Roosevelt Water Conservation District, Higley, Arizona; R&B loan contract; $7,474,424; FR notice published March 30, 1979, Vol. 44, page 19048.

4. Agricultural and M&I water users, CAP, Arizona; Contracts for repayment of Federal expenditures for construction of distribution systems.

5. Contracts with 16 agricultural entities located near the Colorado River in Arizona; Boulder Canyon Project; Water service contracts for up to 27, 894 acre-feet per year total.

6. Fallbrook Public Utility District, Santa Margarita Project, California; Repayment and water service contract; $46,000,000 total obligation.

7. Gila River Indian Community, CAP, Arizona; Water service contract; Contract for delivery of up to 173,100 acre-feet per year.

8. Yuma-Mesa IDD, Gila Project, Arizona; Amendatory contract to allow the district to market up to 10,000 acre-feet of water per year for M&I purposes.

9. Hillcrest Water Company, Boulder Canyon Project, Arizona; Contract for delivery of 84 acre-feet of water per year to serve existing mobile home park pursuant to recommendation by Arizona Department of Water Resources.

10. Sunset Mobile Home Park, Boulder Canyon Project, Arizona; M&I water service contract for delivery of 30 acre-feet of water per year pursuant to recommendation of Arizona Department of Water Resources.

11. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97–293).

12. Santa Ana Watershed Project Authority, Riveside, California; Contract for the repayment of a $14,917,000 SRPA loan.

13. Yuma County Water Users' Association, Valley Division, Yuma Project, Arizona; Amendatory contract for the advancement of $1,500,000 to the association by the United States on a nonreimbursable basis for the construction of new headquarters facilities and accompanying relocation costs.

14. Ak-Chin Indian Community, Maricopa, Arizona; Contract for repayment of $13,018,000 SRPA loan.

Southwest Region

Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430.

1. City of Belen, San Juan-Chama Project, New Mexico; M&I water service contract for 500 acre-feet annually.

2. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use.

3. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work. Necessity of amendment is dependent upon outcome of pending Safety of Dams legislation, S. 956 and H.R. 3208.

4. Vermejo Conservancy District, Vermejo Project, New Mexico; Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Public Law 96–550.

5. State of Colorado, Closed Basin Division, San Luis Valley Project; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (P.L. 89–72), as amended; FR notice published February 12, 1982, Vol. 47, page 6493.

6. Harlingen ID, Lower Rio Grande Valley, Texas; R&B loan contract; $3 million potential obligation; Also amendment of existing SRPA repayment contract.

7. Hidalgo County Irrigation District No. 1, Lower Rio Grande Valley, Texas; Supplemental SRPA loan contract for approximately $13,205,000. The contracting process is dependent upon final approval of the supplemental loan report.

8. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform with the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Upper Missouri Region

Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657–6413.

1. Miscellaneous Water Users, Upper Missouri Region, Montana, Wyoming, North Dakota, and South Dakota; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

2. Individual Irrigators, P–SMBP, Montana, North Dakota, South Dakota, and Wyoming; Irrigation water service contracts not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

3. Crook County ID (formerly Belle Fourche-Wyoming Water Association), Keyhole Unit, P–SMBP, Wyoming; Repayment contract for irrigation storage; 10 percent (presently 18,500 acres-feet) of Keyhole Reservoir storage space as provided by Belle Fourche River Compact; FR notice published August 21, 1980, Vol. 45, Page 55842.

4. Belle Fourche ID, Belle Fourche Unit, P–SMBP, South Dakota; Repayment contract covering construction and rehabilitation of existing irrigation facilities authorized by Public Law 98–157.

5. Town of Kirby, Boysen Unit, P–SMBP, Wyoming; Water service contract for municipal water services; Water entitlement not expected to exceed 50 acre-feet annually.

6. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, Page 19472.

7. State of Wyoming, Buffalo Bill Dam Modifications; P–SMBP, Wyoming; Contract with State of Wyoming for division of additional water impounded, sharing of revenues, and sharing of costs to construct, operate, and maintain modification of the existing Buffalo Bill Dam and Reservoir.

8. Helena Valley ID, P–SMBP, Montana; R&B loan repayment contract; Up to $2.2. million.

9. Fort Shaw ID, Sun River Project, Monatana; R&B loan repayment contract; Up to $1.5 million.

10. Glasgow ID, Milk River Project, Montana; R&B loan repayment contract; Up to $2.2 million.

11. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97–293)

12. City of Huron, James Diversion Dam, P–SMBP, South Dakota; Agreement for continued use of James Diversion Dam and Reservoir facilities and operation and maintenance arrangements; Contract term 20 years.

13. Individual Irrigators, Garrison Diversion Unit, P–SMBP, North Dakota; Use of surplus capacity in water supply system to deliver water to nonproject lands for terms up to 10 years.

14. East Bench ID, East Bench Unit, P–SMBP, Montana; SRPA loan of up to $3.2 million to enclose portions of lateral system in pipe to improve water use efficiency and provide gravity sprinkler pressure.

Lower Missouri Region

Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 236–0595.

1. H&RW ID, Frenchman-Cambridge Unit, P–SMBP, Nebraska; Amendatory water service contract; $1,200,000 outstanding.

2. Central Nebraska Public Power and ID, Glendo Unit, P-SMBP, Nebraska; Irrigation water service contract; 8,000 acre-feet; FR notice published December 30, 1983, Vol, 48, Page 57632.

3. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Amendatory repayment contract for extension of the devlopment period and revision of the repayment determination methodology; FR notice published August 6, 1982, Vol. 47, page 34206.

4. Casper-Alcova ID, Kendrick Project, Wyoming; Amendatory contract to provide water service to subdivided district lands; FR notice published November 24, 1980, Vol. 45, page 77522.

5. Corn Creek ID, Mitchell ID, Earl Michael, Clendo Unit, P-SMBP Wyoming, and Nebraska; Irrigation water service contracts.

6. Town of Breckenridge, Colorado-Big Thompson Project, Colorado; Storage in Green Mountain Reservoir.

7. Pueblo West Metropolitan District, Fryingpan-Arkansas Project, Colorado; Use of municipal outlet of Pueblo Dam for conveyance service.

8. Miscellaneous water users, Lower Missiori Region, Southeastern Wyoming, Colorado, Nebraska, and northern Kansas; Temporary (interim) water service contracts for surplus project water, maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years; FR notice first published on February 16, 1982, Vol. 47, page 6725.

9. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado; Second round of proposed contract negotiations for sale of water from the regulatory capacity of Ruedi Reservoir.

10. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97–293).

11. Lower South Platte Water Conservancy Distirct, Central Colorado Water Conservancy District, and the Colorado Water Resources and Power Development Authority, P–SMBP, Narrows Unit, Colorado; Water service contract for repayment of costs and cost sharing agreement.

12. CF&I Steel Corporation (formerly Colorado Fuel and Iron Corporation), Fryingpan-Arkansas Project, Colorado; Amendment of Contract No. 6–07–70–W0089 to include provision for assignment of part of the replacement storage contract to third parties when CF&I Steel Corporation sells storage space.

13. Amity Mutual Irrigation Company, Colorado; SRPA loan repayment contract; $4,223,000 proposed loan obligation.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within time limits set forth in the advance public notices.

(5) All written comments receive and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contract as they become available for review and comment.

(7) In the envent modifications are made in the form of proposed contract, the appropriate Regional Director shall detemine whether reepublication of the notice and/or extension of the 60-day comment period is necessary.

Factors which shall be considered in making such a determination shall include, but but are not limited to: (i) the significance of the impact(s) of the modification and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties which requested the contract in reponse to the initial public notice.

Dated: July 26, 1984.

Robert A. Olson,

Acting Commissioner of Reclamation

[FR Doc. 84-20292 Filed 7-31-84; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Marine Mammals; Receipt of Application for Permit; Hubbs-Sea World Research Institute, et al.

Notice is hereby given that three applicants have applied in due form for permits to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

a. Name: Hubbs-Sea World Research Institute, APP# 2272BM.

b. Address: 1700 South Shores Road, San Diego, California 92109.

2. Type of Permit: Take.

3. Name and number of animals: 50 Northern sea otters (*Enhydra lutris*). Capture up to 50, 12 of which will be transferred to Sea World, Inc., for studies.

4. Type of Activity: Scientific research.

5. Location of Activity: Prince William Sound, Alaska and Sea World, Inc., San Diego, CA.

6. Period of Activity: August 1984–August 1986.

The purpose of this application is for a permit to conduct research on sea otters to develop safe methods for treating those that become fouled during an oil spill.

1. Applicant:

a. Name: Matsushima Aquarium, APP# 2248BM.

b. Address: 16 Namiuchi-Hama, Matsushima-cho, Miyagi-gun, Miyagi Prefecture, Japan.

2. Type of Permit: Take.

3. Name and number of animals: 4 Northern sea otters (*Enhydra lutris*).

4. Type of Activity: Public display.

5. Location of Activity: Prince William Sound or Green Island, Alaska, or as designated by Alaska Dept. of Fish and Game.

6. Period of Activity: September 1, 1984 to December 31, 1984.

The purpose of this application is for a permit to take (capture) one male and three female sea otters and transport them to Matsushima Aquarium for public display.

1. Applicant:

a. Name: Sunshine International Aquarium, APP# 2250BM.

b. Address: 1–3, Higashi Ikebukuro, 3-Chome, Toshimaku, Tokyo Metropolis, Japan.

2. Type of Permit: Take.

3. Name and number of animals: 4 Northern sea otters (*Enhydra lutris*).

4. Type of Activity: Public display.

5. Location of Activity: Prince William Sound or Green Island, Alaska, or as designated by Alaska Dept. of Fish and Game.

6. Period of Activity: September 1, 1984 to December 31, 1984.

The purpose of the application is for a permit to take (capture) one male and three female sea otters and transport them to Sunshine International Aquarium for public display.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of these applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views or requests for copies of the complete application, or requests for a public hearing on these applications should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Please refer to the appropriate APP # when submitting comments. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements contained in this notice are summaries of those of the applicants and do not necessarily reflect the views of the U.S. Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: July 27, 1984.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-20289 Filed 7-31-84; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the tenth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on August 13 and 14, 1984.

The purpose of the meeting is to assist AID in implementing the components of the Title XII program by providing a two-way communications link for concerns of AID and concerns of the universities. During this meeting JCARD will discuss issues related to Human Capital Development, take action on Strengthening Grant Evaluations, and review JCARD work plans to the remainder of the year.

The Executive Committee will meet from 9:00 a.m. to 12:00 noon on August 13. The full JCARD will meet from 1:00 p.m. to 5:00 p.m. on August 13 and from 9:00 a.m. to 3:00 p.m. on August 14, in Rooms 2722B and 1408, respectively, New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meetings permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meetings. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632–8532.

Dated: July 24, 1984.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 84–20355 Filed 7–31–84; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–154 (Final)]

Cold-Rolled Carbon Steel Sheet From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: July 11, 1984.

SUMMARY: As a result of an affirmative final determination by the U.S. Department of Commerce that imports of cold-rolled carbon steel sheet from Brazil, provided for in item 607.83 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States Trade Commission hereby gives notice of the institution of investigation No. 731–TA–154 (Final) under section 735(b) of the act (19 U.S.C 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. The Commission will make its final injury determination by September 24, 1984 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Lawrence Rausch (202–523–0286), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1983, the Commission notified the Department of Commerce that, on the basis of the information developed during the course of its preliminary investigation, there was a reasonable indication that an industry in the United States was materially injured by reason of imports of cold-rolled carbon steel sheet from Brazil. The preliminary investigation was instituted in response to a petition filed on November 10, 1983, by United Steel States Corp., Pittsburgh, PA.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, purusant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on August 3, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on August 16, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 31, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on August 7, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is August 13, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevent to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on August 21, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 21, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for

confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued by: July 27, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-20344 Filed 7-31-84; 8:45 am]

BILLING CODE 7020-02-M

[Report to the President on Investigation No. TA-201-51]

Carbon and Certain Alloy Steel Products

July 24, 1984.

Determination

On the basis of the information developed during the course of investigation No. TA-201-51, the Commission determines that carbon and alloy steel [1] plates, sheets and strip, wire and wire products, and structural shapes and units are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industries producing articles like or directly competitive with the imported articles; [2] that carbon and alloy steel ingots, blooms, billets, slabs, and sheet bars are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles;[3] and that carbon and alloy steel wire rods, railway-type products, bars, and pipes and tubes and blanks therefor are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles.[4]

Findings and Recommendations [5]

Commissioners Eckes, Lodwick, and Rohr find and recommend that in order to prevent or remedy the serious injury found with respect to ingots, blooms, billets, slabs, and sheet bars; plates; sheets and strip; wire and wire products; and structural shapes and units, it is necessary to impose the following 5-year program of tariffs and quotas: [6]

Ingots, blooms, billets, slabs, and sheet bars: A tariff-rate quota with the existing rates of duty applying to imports up to 1.5 million tons per year. Above that level imports would be assessed additional duties of 15 percent ad valorem in years 1, 2, and 3 of the relief period and 10 percent ad valorem in years 4 and 5.

Plates: A quantitative restriction with imports limited to the larger of 2.1 million tons per year or the following shares of apparent U.S. consumption—21.2 percent in years 1, 2, and 3 of the relief period and 23.3 percent in years 4 and 5.

Hot-rolled sheets and strip: A quantitative restriction with imports limited to the larger of 1.8 million tons per year or the following shares of apparent U.S. consumption—11.0 percent in years 1, 2, and 3 of the relief period and 12.1 percent in years 4 and 5.

Cold-rolled sheets and strip: A quantitative restriction with imports limited to the larger of 1.9 million tons per year or the following shares of apparent U.S. consumption—10.6 percent in years 1, 2, and 3 of the relief period and 11.7 percent in years 4 and 5.

Galvanized sheets and strip: A quantitative restriction with imports limited to the larger of 1.6 million tons per year or the following shares of apparent U.S. consumption—21.4 percent in years 1, 2, and 3 of the relief period and 23.5 percent in years 4 and 5.

All other further worked sheets and strip: A quantitative restriction with imports limited to the larger of 400,000 tons per year or the following shares of apparent U.S. consumption—6.4 percent in years 1, 2, and 3 of the relief period and 7.0 percent in years 4 and 5.

Structural shapes and units, excluding light structural shapes: [7] A quantitative restriction with imports limited to the larger of 2.1 million tons per year or the following shares of apparent U.S. consumption—28.9 percent in years 1, 2, and 3 of the relief period and 31.8 percent in years 4 and 5.

Wire: A quantitative restriction with imports limited to the larger of 400,000 tons per year or the following shares of apparent U.S. consumption—24.5 percent in years 1, 2, and 3 of the relief period and 26.9 percent in years 4 and 5.

Wire products: An additional duty of 12 percent ad valorem in years 1, 2, and 3 of the relief period and 10 percent ad valorem in years 4 and 5.

In addition, Commissioners Lodwick and Rohr recommend that continued import relief be conditioned on the presentation of plans that describe how the period of relief will be used to facilitate an orderly adjustment to import competition. Commissioner Rohr recommends that these plans be presented no later than 120 days following implementation of relief. Commissioners Lodwick and Rohr note that, if the President provides relief, during the period of that relief the Commission will closely monitor the progress of the industry relative to the relief measures in force and at appropriate intervals of the period the Commission will conduct formal reviews under provisions of Title II of the Trade Act of 1974 and report, as appropriate, its findings and/or recommendations to the President.

Chairwoman Stern, having voted in the negative with respect to all products subject to this investigation, recommends that no relief be provided.

Vice Chairman Liebeler, having determined that no temporary tariff or quota can remedy the injury to this industry, recommends that no relief be provided. In the event that the President

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[1] The term "carbon and alloy steel" covers alloy and other than alloy steel (except stainless steel, heat resisting steel, or tool steel, but including tool steel of the type described in headnote 2(h)(vii) to part 2B of schedule 6 of the Tariff Schedules of the United States (TSUS)). The scope of the products included in each of the specified product groups is presented on p. 6.

[2] Chairwoman Stern and Vice Chairman Liebeler dissenting.

[3] Chairwoman Stern and Vice Chairman Liebeler dissenting. Commissioners Lodwick and Rohr determine that carbon and alloy steel ingots, blooms, billets, slabs, and sheet bars are being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. Commissioner Eckes determines that such products are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

[4] Commissioners Eckes and Rohr dissenting with respect to carbon and alloy steel pipes and tubes and blanks therefor.

[5] Pursuant to sec. 213(e)(2) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(e)(2)), these findings and recommendations also apply to the subject carbon and alloy steel products when imported from beneficiary [Caribbean Basin] countries.

[6] Certain products are excluded from the remedy recommendation. They are bandsaw steel, razor-blade steel, bread-knife steel, and shoe-die knife steel. In addition, Commissioners Eckes, Lodwick, and Rohr recommend that the President review the record of exclusion requests furnished by the Commission to determine whether other items should be excluded. All quantities refer to short tons (2,000 pounds)

[7] No relief is recommended for light structurals, i.e., those having a maximum cross-sectional dimension of less than 3 inches.

decides to erect an import barrier, however, Vice Chairman Liebeler recommends that it be conditioned on a compensation cut to steelworkers of at least 20 percent.

Background

On January 24, 1984, following receipt of a petition filed on behalf of the United Steelworkers of America, AFL–CIO/CLC, and Bethlehem Steel Corp., the Commission instituted investigation No. TA–201–51, under section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)), to determine whether carbon and alloy steel ingots, blooms, billets, slabs, and sheet bars; plates; sheets and strip; wire rods; wire and wire products; railway-type products; bars; structural shapes and units; and pipes and tubes and blanks therefore are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Notice of the institution of the investigation and of public hearings to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on February 15, 1984 (49 FR 5838). Public hearings were held on May 9–12, 1984 (on the question of injury) and June 21–22, 1984 (on the question of remedy), at which time all persons were afforded the opportunity to present evidence and be heard. In public sessions, the Commission announced its injury determination on June 12, 1984, and its remedy recommendations on July 11, 1984.

This report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act.[8] The information in the report was obtained from responses to Commission questionnaires, fieldwork and interviews by members of the Commission's staff, other agencies, information presented at the public hearings, briefs submitted by interested parties, the Commission's files, and other sources.

[8] The Commission transmitted its report on this investigation to the President on July 24, 1984. A public version of the Commission's report, Carbon and Certain Alloy Steel Products (inv. No. TA–201–51, USITC Publication 1553, July 1984), contains the views of the Commission and information developed during the investigation.

Issued: July 24, 1984.

Kenneth R. Mason,

Secretary.

Scope of the Products Subject to This Investigation[9]

Ingots, Blooms, Billets, Slabs, and Sheet Bars

Carbon and alloy steel ingots, blooms, billets, slabs, and sheet bars provided for in items 606.6705, 606.6710, 606.6715, 606.6720, 606.6725, 606.6730, 606.6735, 606.6740, 606.6926, 606.6929, 606.6932, 606.6935, 606.6938, 606.6941, 606.6944, and 606.6947 of the Tariff Schedules of the United States Annotated (TSUSA).

Plates

Carbon and alloy steel plates provided for in TSUSA items 607.6610, 607.6620, 607.6625, 607.6900, 607.7803, 607.7806, 607.8320, 607.8600, 607.9100, 607.9400, 608.0710, 608.1100, 608.1420, 609.1400, and 609.1500.

Sheets and Strip

Hot-rolled carbon and alloy steel sheets and strip provided for in TSUSA items 607.6710, 607.6720, 607.6730, 607.6740, 607.8100, 607.8342, 608.1920, 608.2120, 608.2320, 608.5900, and 608.6720.

Cold-rolled carbon and alloy steel sheets and strip provided for in TSUSA items 607.6200, 607.6400, 607.8355, 607.8360, 607.9205, 607.9210, 607,9320, 608.1940, 608.2145, 608.2150, 608.2340, 608.3100, 608.3820, 608.3900, 608.4700, and 608.5520.

Galvanized carbon and alloy steel sheets and strip provided for in TSUSA items 608.1310, 608.1320, and 608:1330.

All other carbon and alloy steel sheets and strip provided for in TSUSA items 607.8350, 607.9600, 607.9700, 607.9900, 608.0100, 608.0730, 608.1340, 608.1350, 608.1440, 609.1710, and 609.1790.

Wire Rods

Carbon and alloy steel wire rods provided for in TSUSA items 607.1400, 607.1700, 607.2200, 607.2300, 607.3200, 607.4100, 607.4800, and 607.5900.

Wire

Carbon and alloy steel wire, bale ties made from wire, and milliners' wire and other wire covered with textile or other material not wholly of metal provided for in TSUSA items 609.2000, 609.2100, 609.2200, 609.2500, 609.2800, 609.3040, 609.3340, 609.3500, 609.3600, 609.3700, 609.4010, 609.4040, 609.4055, 609.4065, 609.4120, 609.4125, 609.4165, 609.4315, 609.4365, 609.4530, 609.4560, 609.7000, 609.7200, 609.7500, 609.7600, 642.9000, 642.9100, 642.9600, and 642.9700.

[9] Based on tariff classifications in the 1984 TSUSA through supplement 3.

Wire Products

Carbon and alloy steel barbed and twisted wire provided for in TSUSA items 642.0200 and 642.1105.

Carbon and alloy steel wire strand provided for in TSUSA items 642.1120, 642.1142, 642.1144, and 642.1146.

Carbon and alloy steel wire ropes, cables, and cordage provided for in TSUSA items 642.1200, 642.1610, and 642.1650.

Carbon and alloy steel wire fencing provided for in TSUSA items 642.3510, 642.3530, 642.3560, and 642.3570.

Carbon and alloy steel wire brads, nails, spikes, staples, and tacks provided for in TSUSA items 646.2500, 646.2622, 646.2624, 646.2626, 646.2628, 646.2642, 646.2644, 646.2646, and 646.2648.

Railway-Type Products

Carbon and alloy steel rails provided for in TSUSA items 610.2010, 610.2020, and 610.2100.

Carbon and alloy steel joint bars, tie plates, and track spikes provided for in TSUSA items 610.2500, 610.2600, and 646.3020.

Carbon and alloy steel railway wheels and axles provided for in TSUSA items 690.2500 and 690.3000.

Bars

Carbon and alloy steel bars provided for in TSUSA items 606.7900, 606.8100, 606.8310, 606.8330, 606.8350, 606.8600, 606.8805, 606.8815, 606.9105, 606.9110, 606.9700, 606.9900, 607.0500, 607.0700, and 607.0900.

Structural Shapes and Units

Carbon and alloy steel sheet piling provided for in TSUSA items 609.9600 and 609.9800.

Carbon and alloy steel angles, shapes, and sections (light structural shapes) provided for in TSUSA items 609.8050, 609.8070, 609.8090, 609.8235, and 609.8240.

Carbon and alloy steel angles, shapes, and sections (heavy structural shapes) provided for in TSUSA items 609.8005, 609.8015, 609.8035, 609.8041, 609.8045, 609.8225, and 609.8230.

Carbon and alloy steel angles, shapes, and sections and columns, pillars, posts, beams, girders, and similar structural units provided for in TSUSA items 609.8400, 609.8600, 652.9400, and 652.9600.

Pipes and Tubes and Blanks Therefor

Carbon and alloy steel pipes and tubes and blanks therefor provided for

in TSUSA items 610.3000, 610.3100, 610.3205, 610.3208, 610.3209, 610.3212, 610.3213, 610.3216, 610.3219, 610.3221, 610.3227, 610.3231, 610.3233, 610.3234, 610.3241, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3500, 610.3600, 610.3704, 610.3711, 610.3712, 610.3713, 610.3721, 610.3722, 610.3728, 610.3732, 610.3751, 610.3925, 610.3935, 610.3945, 610.3955, 610.4025, 610.4035, 610.4045, 610.4055, 610.4225, 610.4235, 610.4245, 610.4255, 610.4325, 610.4335, 610.4345, 610.4355, 610.4500, 610.4600, 610.4800, 610.4920, 610.4925, 610.4928, 610.4931, 610.4933, 610.4936, 610.4942, 610.4944, 610.4946, 610.4948, 610.4951, 610.4953, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.4976, 610.5160, 610.5206, 610.5209, 610.5211, 610.5214, 610.5216, 610.5221, 610.5222, 610.5226, 610.5229, 610.5240, 610.5242, 610.5243, and 610.5244.

[FR Doc. 84-20367 Filed 7-30-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-162]

Certain Cardiac Pacemakers and Components Thereof; Determination Not To Review an Initial Determination Terminating Certain Patent Claims as to Certain Respondents

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) to terminate the above-captioned investigation regarding U.S. Letters Patent 3,595,242 as to respondents Biotronik GmbH & Co. and Biotronik Sales Inc.

Authority: 19 U.S.C. 1337; 19 CFR 210.53 (c) and (h).

SUPPLEMENTARY INFORMATION: On July 21, 1984, respondents Biotronik GmbH & Co. and Biotronik Sales Inc. (Biotronik) moved (Motion No. 162-82) for summary determination that they were not infringing any claims of U.S. Letters Patent 3,595,242 on the ground that they had acquired a license under the patent from parties whose rights were superior to those of complainant Medtronic Inc.

On July 3, 1984, the presiding officer issued an ID (Order No. 71) granting the motion. The ID found that Biotronik had acquired a license under the patent to make, use, and sell the patented article worldwide and that those rights are superior to any rights in the '242 patent that can be asserted by complainant.

The investigation has been previously terminated with respect to the '242 patent as to all other respondents. Therefore, the '242 patent is no longer at issue in the investigation.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

By order of the Commission.

Issued: July 27, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-20359 Filed 7-31-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-162]

Certain Cardiac Pacemakers and Components Thereof; Determination Not To Review an Initial Determination Terminating the Investigation as to the Autima 2291 Pacemaker

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) to terminate the above-captioned investigation as to the Telectronics respondents' Autima II (Model No. 2291) cardiac pacemaker.

Authority: 19 U.S.C. 1337; 19 CFR 210.53 (c) and (h).

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Telectronics respondents moved (Motion No. 162-77) for partial termination of the investigtion as to the Autima II (model 2291) pacemaker on the ground that they have committed no unfair method of competition or unfair act within the meaning of 19 U.S.C. 1337. On June 29, the Commission's presiding officer issued an ID (Order No. 64) terminating the investigation as to the Autima 2291 pacemaker on the ground that there was an insufficient nexus between importation and the alleged unfair acts. He found no nexus because the two imported components of the Autima 2291 do not directly infringe, contributorily infringe, or induce infringement of the patents in controversy.

A petition for review was filed by complainant Medtronic Inc. and opposed by the Telectronics respondents and by the Commission investigative attorney. No comments were received from other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493

By order of the Commission.

Issued: July 23, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-20360 Filed 7-31-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-160]

Certain Composite Diamond Coated Textile Machinery Components; Decision To Review Initial Determination; Determination of No Violation of Section 337 of the Tariff Act of 1930

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review a portion of the presiding officer's initial determination (ID) that there is no violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation. The Commission has determined to review the ID and affirm the presiding officer with respect to his determination that claims 2, 12, 13, and 14 of U.S. Letters Patent Re. 29,285 (the '285 patent) are invalid as obvious under 35 U.S.C. 103. The Commission has issued an opinion in support of its action. The Commission has determined not to review the remainder of the ID, except that it takes no position regarding the presiding officer's determinations as to the validity of the remainder of the patent claims at issue and the issue of prevention of the establishment of an industry. Thus, the Commission has concluded that there is no violation of section 337 in this investigation.

Authority: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 2337) and in §§ 210.53-210.56 of the Commission's Rules of Practice and Procedure. 19 CFR 210.53-210.56.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation in response to a complaint filed by Surface Technology, Inc. (STI) of Princeton Junction, New Jersey, to determine whether there is a violation of section 337 in the importation of certain composite diamond coated textile machinery components into the United States, or in their sale. The complaint alleged that such importation or sale constitutes unfair methods of competition and unfair acts by reason of: (1) Infringement of claims 1-4 and 7-4 of the '285 patent; (2) infringement of claim 1 of U.S. Letters Patent 3,904,512 (the '512 patent; and (3) unreasonable restraint of trade with respect to

warranty services for the imported products. The issues of alleged infringement of claim 1 of the '512 patent and the alleged tying arrangements constituting unreasonable restraints of trade were withdrawn with prejudice by complainant prior to the evidentiary hearing.

Eight firms were named respondents: (1) Barmer Barmag Maschinenfabrik A.G., of the Federal Republic of Germany; (2) Elektroschmelzwerk Kempten GmbH, of the Federal Republic of Germany; (3) FAG Kugelfischer Georg Schaefer & Co., of the Federal Republic of Germany; (4) Schubert & Salzer Maschinenfabrik A.G., of the Federal Republic of Germany; (5) Schubert & Salzer Machine Works Co., of Pendeleton, South Carolina; (6) Schlafhorst & Co., the Federal Republic of Germany; (7) American Schlafhorst Co., Inc., of Charlotte, North Carolina; and (8) American Barmag Corporation, of Charlotte, North Carolina.

On May 29, 1984, the presiding officer issued an ID that there is no violation of section 337 in the importation or sale of the composite diamond coated textile machinery components under investigation. Specifically, the presiding officer determined that the four method claims of the '285 patent are invalid and that the imported articles under investigation do not infringe the remaining product claims of the '285 patent.

Complainant STI filed a petition for review of the presiding officer's determinations as to invalidity and infringement. Respondents filed two contingent petitions for review. No other petitions or agency comments were received.

Notice of this investigation was published in the Federal Register of August 26, 1983. (48 FR 38907).

Copies of the public version of the ID, the Commission's Action and Order, its Opinion, and all other nonconfidential documents in the record of this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, United States International Trade Commission, telephone 202–523–3395.

By order of the Commission.

Issued: July 23, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–20361 Filed 7–31–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–199 (Preliminary)]

Certain Dried Salted Codfish From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: July 19, 1984.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of cod, which has been dried and salted, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers, provided for in item 111.22 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. David Coombs, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–1376.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on July 19, 1984, by Codfish Corporation, Ponce, Puerto Rico. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by September 4, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before August 14, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statement must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on August 10, 1984, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. David Coombs (202–523–1376), not later than August 8, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour

within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201). Further information concerning the conduct of the conference will be provided by Mr. Coombs.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: July 24, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-20362 Filed 7-31-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-200]

Certain Ink Jet Printing Systems and Components Thereof

Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Sidney Harris as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: July 26, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-20363 Filed 7-31-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-190]

Certain Softballs and Polyurethane Cores Therefor

Order No. 7

For reasons of administrative necessity and pursuant to my authority as Chief Administrative Law Judge, I hereby designate Administrative Law Judge Sidney Harris as Presiding Officer in this investigation, effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record, and shall publish it in the **Federal Register.**

Issued: July 23, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-20364 Filed 7-31-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-191]

Certain Stretch Wrapping Apparatus and Components Thereof

Order No. 6

For reasons of administrative necessity and pursuant to my authority as Chief Administrative Law Judge, I hereby designate Administrative Law Judge Sidney Harris as Presiding Officer in this investigation, effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record, and shall publish it in the **Federal Register.**

Issued: July 23, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-20365 Filed 7-31-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-75]

Certain Large Video Matrix Display Systems and Components Thereof; Extension of Time for Commission Decision on Whether to Order Review of Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has extended until August 6, 1984, the time by which it must decide whether to review the initial determination on violation of section 337 issued in the above-captioned investigation.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930, 10 U.S.C. 1337, and in §§ 210.53-210.57, of the Commission's Rules of Practice and Procedure, 19 CFR 210.53-210.57, as amended by 48 FR 20226, 21115.

SUPPLEMENTARY INFORMATION: The initial determination concerning violation of section 337 was filed on June 13, 1984, and was served on the parties on June 14, 1984. The Commission extended the time for deciding whether to review the initial determination after a party received an extension of time for filing a petition for review. In the absence of this extension of time, the time provided in the Commission's rules for deciding whether to order review of the initial determination would have expired on July 27, 1984.

Copies of the nonconfidential version of the initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0189.

By order of the Commission.

Issued: July 27, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-20366 Filed 7-31-84; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Established 1984 Aggregate Production Quotas.

SUMMARY: This notice establishes revised 1984 aggregate production quotas for controlled substances in Schedules I and II, as required under the Controlled Substances Act of 1970.

EFFECTIVE DATE: This order is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code, Section 826) requires the Attorney General to establish aggregate production quotas for all controlled substance in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to Section 0.100 of Title 28 of the Code of Federal Regulations.

On May 30, 1984, a notice of the proposed revised 1984 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (49 FR 22570). All interested parties were

invited to comment on or object to these proposed aggregate production quotas on or before June 29, 1984.

One comment was received from Up Front, Inc. of Miami, Florida, a drug information organization. Relative to 2,5-dimethoxyamphetamine, Up Front, Inc. was interested in obtaining information on the industrial use of this chemical substance. No other comments or requests were received.

Pursuant to Sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S. Code 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S. Code, Section 826) and delegated to the Administrator of the Drug Enforcement Administration by Section 0.100 of Title 28 of the Code of Federal Regulations, the Administrator hereby orders that the 1984 revised aggregate production quotas be established as follows:

Basic class	Production quota [1]
Schedule I: 2,5-Dimethoxyamphetamine	13,000,000
Schedule II:	
Alphaprodine	57,000
Codeine (for conversion)	3,582,000
Desoxyephedrine	[2] 1,217,000
Dextropropoxyphene	78,421,000
Dihydrocodeine	1,398,000
Diphenoxylate	690,000
Hydrocodone	1,456,000
Hydromorphone	181,500
Levorphanol	22,000
Meperidine	12,889,000
Methadone	1,050,000
Methadone Intermediate	1,313,000
Methylphenidate	1,495,000
Mixed Alkaloids of Opium	19,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	1,878,000
Oxycodone (for sale)	1,930,000
Oxycodone (for conversion)	163,000
Pentobarbital	14,000,000
Thebaine	6,034,000

[1] Established revised 1984 aggregate production quota, expressed in grams of anhydrous acid or base.

[2] 1,017,000 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product and 200,000 grams for the production of methamphetamine.

Dated: July 25, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-20297 Filed 7-31-84; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84-63]

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, a amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Techonolgy Advisory Committee; Informal Advisory Subcommittee on Aerothermodynamics.

DATE AND TIME: August 23, 1984, 8 a.m. to 5 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Avenue, SW., Room 425, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mrs. Lana M. Couch, National Aeronautics and Space Administration, Code RSC, Washington, DC 20546 (202/453-2864).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aerothermodynamics was established to provide advice and coordination of NASA Aerothermodynamics research programs with efforts in other agencies, universities, and industry. The Subcommittee, chaired by Professor Seymour Bogdonoff, is comprised of 7 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of meeting: Open.

Agenda

August 23, 1984

8 a.m.—Introduction.

8:30 a.m.—Potential Requirements for Aerothermodynamics Technology.

- Air Force.
- Navy.
- NASA.

2 p.m.—Discussion and Assessment.

5 p.m.—Adjourn.

Dated: July 25, 1984.

Richard L. Daniels

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84-20228 Filed 7-31-84; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-170]

Final Finding of No Significant Environmental Impact Regarding Proposed Amendment to Facility Operating License No. R-84—Armed Forces Radiobiology Research Institute

The Nuclear Regulatory Commission (the Commission) is considering issuance of an Amendment to Facility Operating License No. R-84 for the Armed Forces Radiobiology Research Institute research and training reactor located at National Naval Medical Center in Bethesda, Maryland.

The amendment will renew the Operating License until November 8, 2000, in accordance with the licensee's application dated October 3, 1980, as supplemented. Opportunity for hearing was afforded by the Notice of Proposed Issuance published in the **Federal Register** on November 25, 1980 at 45 FR 78314.

Environmental Assessment

Identification of Proposed Action

The proposed renewal of the reactor Operating License is in accordance with the licensee's application for renewal dated October 3, 1980, as supplemented. The amendment would renew the Operating License of the reactor until November 8, 2000.

Need for the Proposed Action

The proposed renewal is required because the existing Operating License has expired, and the licensee has made a timely request for authorization to continue operating the reactor.

Environmental Impacts of the Proposed Action

The proposed action would authorize the licensee to continue operating the reactor in the same manner that it has been operated since 1962. The environmental impacts associated with the continued operation of the AFRRI facility are discussed in an Environmental Impact Appraisal dated January 1982. The appraisal concluded that continued operation of the AFRRI reactor for an additional 20 years will

not result in any significant environmental impacts on air, water, land or biota in the area, and that an Environmental Impact Statement need not be prepared. These conclusions were based on the following:

(a) Normal routine releases of radioactive effluents from the facility are well within the guidelines of 10 CFR Part 20 for unrestricted areas;

(b) At licensed steady state power level, the inventory of fission products in the fuel cannot generate sufficient radioactive decay heat to cause fuel damage even in the hypothetical event of rapid total loss of coolant; and

(c) The hypothetical loss of integrity of the cladding of the maximum irradiated fuel rod will not lead to radiation exposures in the unrestricted environment that exceed the guidelines of 10 CFR Part 20.

In addition, continued operation will not require alteration of buildings or structures, will not lead to changes in effluents released from the facility to the environment, will not increase the probability or consequences of accidents, and will not involve any unresolved issues concerning alternative uses of available resources. Based on the foregoing and on the Environmental Impact Appraisal, the Commission concludes that renewal of the license will not result in any significant environmental impacts.

Alternatives to the Proposed Action

As required by section 102(2)(E) of NEPA (42 U.S.C.A. 4332(2)(E)), the staff has considered possible alternatives to the proposed action, including cessation of operation of the reactor and has concluded that, from the standpoint of environmental impact, there are no appropriate alternatives to the proposed action.

Agencies of Persons Consulted

The NRC staff obtained technical assistance from the Los Alamos National Laboratory in reviewing the licensee's application for renewal.

Finding of No Significant Impact

Based on the Environmental Impact Appraisal, the staff concluded that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined not to prepare an Environmental Impact Statement for the proposed action.

For further details with respect to this proposed action, see the application for license renewal dated October 3, 1980, as supplemented, the Environmental Impact Appraisal, the Safety Evaluation Report prepared by the staff (NUREG-0882), and supplement 1 to the Safety Evaluation Report.

The Environmental Impact Appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTENTION: Director, Division of Licensing.

Copies of NUREG-0882 and Supplement 1 to NUREG-0882 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22151.

Dated at Bethesda, Maryland, this 27th day of July 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 84-20371 Filed 7-31-84; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Revision 3 to Regulatory Guide 1.147, "Inservice Inspection Code Case Acceptability—ASME Section XI, Division 1," lists those code cases that are generally acceptable to the NRC staff for implementation in the inservice inspection of light-water-cooled nuclear power plants. This guide is revised periodically to update the listing of acceptable code cases and to include the results of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

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

Dated at Silver Spring, Maryland this 25th day of July 1984.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 84-20373 Filed 7-31-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413 and 50-414]

Duke Power Co.; Catawba Nuclear Station, Units 1 and 2; Receipt of Request for Action

Notice is hereby given that by letter dated June 27, 1984 Mr. Robert Guild, on behalf of the Palmetto Alliance, has requested pursuant to 10 CFR 2.206 that the Director of the Office of Inspection and Enforcement initiate proceedings pursuant to 10 CFR 2.202 to modify, suspend or revoke the construction permits for the Catawba Nuclear Station. The request is based primarily on the petitioners' disagreement with the Atomic Safety and Licensing Board over the significance of the Board's recent findings regarding inadequacies in the quality assurance program for the Duke Power Company's Catawba Nuclear Station. In its decision, the Licensing Board found that, despite instances of inadequacies in the quality assurance program and instances of harassment or intimidation of quality control inspectors, there was reasonable assurance that the plant had been constructed adequately to ensure no undue risk to public health and safety in the event that Catawba Unit 1 was authorized to operate. At the time the petitioner's request was filed, the Director was about to issue a decision regarding another petition filed on behalf of the Palmetto Alliance by the Government Accountability Project. This decision reviewed many of the

same matters that were before the Licensing Board for decision. In the 2.206 decision (DD–84–16) the Director concluded that there had not been a significant quality assurance breakdown at Catawba such that the initiation of enforcement proceedings to modify the Catawba construction permits was warranted. The June 27th petition filed by Mr. Guild does not present any new information that was not considered in reaching the recent § 2.206 decision, and therefore no action appears warranted at this time to grant the relief requested by Mr. Guild on behalf of the petitioner. The staff is reviewing the Catawba Partial Initial Decision and the Board's findings which are of concern to petitioner relative to 10 CFR 50.7. As provided in 10 CFR 2.206, the staff will take appropriate action on the petitioner's request within a reasonable time upon completion of its review.

A copy of the petitioner's June 27, 1984 request is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room for the Catawba Nuclear Station at the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Bethesda, Maryland, this 20th day of July 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84–20369 Filed 7–31–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 40–2061, and 2061–ML; Source Material, License No. STA 583; ASLBP Nos. 84–502–01 SC and 84–495–01–ML]

Kerr-McGee Chemical Corp., Kress Creek Decontamination and Kerr-McGee Chemical Corp., West Chicago Rare Earths Facility

July 26, 1984.

Please take notice that prehearing conferences in the above-captioned proceedings will take place on August 22 and 23, 1984, at the U.S. Court of Appeals, Room 2721, 219 South Dearborn Street, Chicago, Illinois, 60604. A prehearing conference in the Show Cause, Kress Creek Decontamination proceeding will begin at 9:30 AM, and will be followed immediately by a prehearing conference in the West Chicago Rare Earths proceeding.

The purpose of the Kress Creek conference is to consider the petitions to intervene and contentions, to hear the parties' views on whether the proceeding should be consolidated with the license amendment proceeding concerning the storage and/or disposal of the wastes presently existing on the Kerr-McGee West Chicago Rare Earths Facility site, and to set a schedule for the resolution of the proceeding.

The purpose of the West Chicago Rare Earths conference is to hear the views of the parties on whether the proceeding should be consolidated with the Show Cause proceeding, to review the progress of discovery, set further schedules as necessary, and to resolve any disputes among the parties or consider any other matters which the Board or the parties may wish to raise.

Bethesda, Maryland, July 26, 1984.

For the Atomic Safety and Licensing Board.

John H. Frye III,

Chairman, Administrative Judge.

[FR Doc. 84–20370 Filed 7–31–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–289]

Metropolitan Edison Co., et al., Three Mile Island Nuclear Station, Unit No. 1, Issuance of a Director's Decision

Notice is hereby given that the Director, Office of Inspection and Enforcement, has issued a decision concerning a Petition dated May 30, 1984, filed by the City of Harrisburg, Pennsylvania (Petitioner). The Petitioner requested institution of proceedings pursuant to 10 CFR 2.206 to suspend indefinitely the license of GPU Nuclear to operate the Three Mile Island Nuclear Station, Unit No. 1. The basis for the Petition was the alleged inadequacy of the emergency evacuation plan for the City of Harrisburg. The request has been treated pursuant to 10 CFR 2.206 of the Commission's regulations and a final Director's decision pursuant to 10 CFR 2.206 has been issued by the Director, Office of Inspection and Enforcement, denying the Petitioner's request. The reasons for this denial are explained in the "Director's decision under 10 CFR 2.206" (DD–84–18), which is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room for the Three Mile Island Nuclear Station, Unit No. 1 at [insert address].

A copy of the decision will be filed with the Secretary for Commission review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the decision will become the final action of the Commission twenty-five (25) days after issuance, unless the Commission, on its own motion, institutes review of the decision within that time.

Dated at Bethesda, Maryland this 27th day of July 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84–20372 Filed 7–31–84; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

July 25, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Advest Group, Inc.
Common Stock, $1.00 Par Value (File No. 7–7555)

Airborne Freight Corporation
Common Stock, $1.00 Par Value (File No. 7–7556)

Ala Moana Hawaii Properties
American Depositary Receipts (File No. 7–7557)

Albertson's, Incorporated
Common Stock, $1.00 Par Value (File No. 7–7558)

Allen Group Inc.
Common Stock, $1.00 Par Value (File No. 7–7559)

American President Companies, Ltd.
Common Stock, $0.01 Par Value (File No. 7–7560)

Alco Standard Corporation
Common Stock, No Par Value (File No. 7–7561)

American Stores Company
Common Stock, $1.00 Par Value (File No. 7–7562)

Analog Devices, Inc.
Common Stock, $0.16–⅔ Par Value (File No. 7–7563)

APL Corporation
Common Stock, $0.10 Par Value (File No. 7–7564)

ARA Services, Inc.
Common Stock, $0.50 Par Value (File No. 7–7565)

Aydin Corporation
Common Stock, $1.00 Par Value (File No. 7–7566)

Bally's Park Place, Inc.
Common Stock, $0.10 Par Value (File No. 7–7567)

Barry Wright Corporation
Common Stock, $1.00 Par Value (File No. 7–7568)

Bell & Howell Company
Common Stock, No Par Value (File No. 7–7569)
Berkey Photo, Inc.
Common Stock, $1.00 Par Value (File No. 7–7570)
Carling O'Keefe Limited
Common Stock, No Par Value (File No. 7–7571)
Carolina Freight Corporation
Common Stock, $0.50 Par Value (File No. 7–7572)
Centronics Data Computer Corp.
Common Stock, $0.01 Par Value (File No. 7–7573)
CertainTeed Corporation
Common Stock, $1.00 Par Value (File No. 7–7574)
Collins & Aikman Corporation
Common Stock, No Par Value (File No. 7–7575)
Conrack Corporation
Common Stock, $0.50 Par Value (File No. 7–7576)
Cordura Corporation
Common Stock, $0.25 Par Value (File No. 7–7577)
Crown Cork & Seal Co., Inc.
Common Stock, $5.00 Par Value (File No. 7–7578)
Dayco Corporation
Common Stock, $1.00 Par Value (File No. 7–7579)
Deltona Corporation
Common Stock, $1.00 Par Value (File No. 7–7580)
Di Giorgio Corporation
Common Stock, $2.50 Par Value (File No. 7–7581)
Diversified Industries, Inc.
Common Stock, $0.50 Par Value (File No. 7–7582)
Electronic Associates, Inc.
Common Stock, $1.00 Par Value (File No. 7–7583)
Emerson Radio Corporation
Common Stock, $0.10 Par Value (File No. 7–7584)
Farah Manufacturing Company, Inc.
Common Stock, $4.00 Par Value (File No. 7–7585)
Federal Signal Corporation
Common Stock, $1.00 Par Value (File No. 7–7586)
Frigitronics, Inc.
Common Stock, $0.10 Par Value (File No. 7–7587)
Fuqua Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7–7588)
Gap Store, Inc.
Common Stock, $0.05 Par Value (File No. 7–7589)
General Housewares Corp.
Common Stock, $0.33–⅓ Par Value (File No. 7–7590)
General Nutrition, Inc.
Common Stock, No Par Value (File No. 7–7591)
W. W. Grainger, Inc.
Common Stock, $1.00 Par Value (File No. 7–7592)
Great Northern Nekoosa Corporation
Common Stock, $5.00 Par Value (File No. 7–7593)
Grubb & Ellis Company
Common Stock, $1.00 Par Value (File No. 7–7594)
Gulf Resources & Chemical Corporation
Common Stock, $0.10 Par Value (File No. 7–7595)
Hammermill Paper Company
Common Stock, $1.25 Par Value (File No. 7–7596)
Hamdleman Company
Common Stock, $1.00 Par Value (File No. 7–7597)
Handy & Harman
Common Stock, $1.00 Par Value (File No. 7–7598)
Harnischfeger Corporation
Common Stock, $1.00 Par Value (File No. 7–7599)
Heritage Communications, Inc.
Common Stock, $0.50 Par Value (File No. 7–7600)
High Voltage Engineering Corporation
Common Stock, $1.00 Par Value (File No. 7–7601)
Honda Motor Corp., Inc.
American Depositary Receipts (File No. 7–7602)
House of Fabrics, Inc.
Common Stock, $0.10 Par Value (File No. 7–7603)
Ideal Basic Industries, Inc.
Common Stock, $5.00 Par Value (File No. 7–7604)
Informatics General Corporation
Common Stock, $0.14 Par Value (File No. 7–7605)
Intermedics, Inc.
Common Stock, $0.10 Par Value (File No. 7–7606)
International Rectified Corporation
Common Stock, $1.00 Par Value (File No. 7–7607)
Inter-Regional Financial Group, Inc.
Common Stock, $0.125 Par Value (File No. 7–7608)
IPCO Corporation
Common Stock, $1.00 Par Value (File No. 7–7609)
Japan Fund, Inc.
Common Stock, $0.33⅓ Par Value (File No. 7–7610)
Kaiser Cement Corporation
Common Stock, $1.00 Par Value (File No. 7–7611)
Lennar Corporation
Common Stock, $0.10 Par Value (File No. 7–7612)
LEE Corporation
Common Stock, $1.00 Par Value (File No. 7–7613)
Libbey-Owens-Ford Company
Common Stock, $5.00 Par Value (File No. 7–7614)
Macmillan, Inc.
Common Stock, $1.00 Par Value (File No. 7–7615)
Marion Laboratories, Inc.
Common Stock, $1.00 Par Value (File No. 7–7616)
Mesa Royalty Trust
Units of Beneficial Interest (File No. 7–7617)
Mission Insurance Group, Inc.
Common Stock, No Par Value (File No. 7–7618)
Morrison-Knudsen Co., Inc.
Common Stock, $3.33⅓ Par Value (File No. 7–7619)
Morton Thiokol, Inc.
Common Stock, $1.00 Par Value (File No. 7–7620)
Nashua Corporation
Common Stock, $1.00 Par Value (File No. 7–7621)
Nevada Power Company
Common Stock, $1.00 Par Value (File No. 7–7622)
Nortek, Inc.
Common Stock, $1.00 Par Value (File No. 7–7623)
Northgate Exploration Limited
Common Stock, $1.00 Par Value (File No. 7–7624)
Norton Company
Common Stock, $5.00 Par Value (File No. 7–7625)
ONEOK, Inc.
Common Stock, No Par Value (File No. 7–7626)
Overseas Shipholding Group, Inc.
Common Stock, $1.00 Par Value (File No. 7–7627)
Pacific Lumber Company
Common Stock, $0.50 Par Value (File No. 7–7628)
Pennwalt Corporation
Common Stock, $1.00 Par Value (File No. 7–7629)
Playboy Enterprises, Inc.
Common Stock, $1.00 Par Value (File No. 7–7630)
PNB Mortgage and Realty Investors
Shares of Beneficial Interest (File No. 7–7631)
Presley Companies
Common Stock, $0.1875 Par Value (File No. 7–7632)
Regal International, Inc.
Common Stock, $0.10 Par Value (File No. 7–7633)
Research-Cottrell, Inc.
Common Stock, $1.00 Par Value (File No. 7–7634)
Rohm & Haas Company
Common Stock, $2.50 Par Value (File No. 7–7635)
Saga Corporation
Common Stock, $1.00 Par Value (File No. 7–7636)
SeaCo Inc.
Common Stock, $0.125 Par Value (File

No. 7–7637)
Seagull Energy Corporation
Common Stock, $0.10 Par Value (File No. 7–7638)
Simplicity Pattern Co., Inc.
Common Stock, $0.08⅓ Par Value (File No. 7–7639)
Southern New England Telephone Company
Common Stock, $12.50 Par Value (File No. 7–7640)
Spectra-Physics, Inc.
Common Stock, $0.20 Par Value (File No. 7–7641)
SPS Technologies, Inc.
Common Stock, $1.00 Par Value (File No. 7–7642)
Standard-Pacific Corporation
Common Stock, $0.25 Par Value (File No. 7–7643)
Steego Corporation
Common Stock, $0.10 Par Value (File No. 7–7644)
Stop & Shop Companies, Inc.
Common Stock, $1.00 Par Value (File No. 7–7645)
Sybron Corporation
Common Stock, $2.50 Par Value (File No. 7–7646)
Talley Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7–7647)
Telerate, Inc.
Common Stock, $0.01 Par Value (File No. 7–7648)
Transcon Incorporated
Common Stock, No Par Value (File No. 7–7649)
TRE Corporation
Common Stock, $1.00 Par Value (File No. 7–7650)
Tribune Company
Common Stock, No Par Value (File No. 7–7651)
UGI Corporation
Common Stock, $4.50 Par Value (File No. 7–7652)
Union Corporation
Common Stock, $0.50 Par Value (File No. 7–7653)
United Brands Company
Common Stock, $1.00 Par Value (File No. 7–7654)
United Merchants & Manufacturers, Inc.
Common Stock, $1.00 Par Value (File No. 7–7655)
Washington Gas Light Company
Common Stock, No Par Value (File No. 7–7656)
Watkins-Johnson Company
Common Stock, No Par Value (File No. 7–7657)
Westvaco Corporation
Common Stock, $5.00 Par Value (File No. 7–7658)
World Airways, Inc.
Common Stock, $1.00 Par Value (File No. 7–7659)
Wyly Corporation
Common Stock, $0.10 Par Value (File No. 7–7660)
XTRA Corporation
Common Stock, $0.50 Par Value (File No. 7–7661)
American Science and Engineering, Inc.
Common Stock, $0.66-⅔ Par Value (File No. 7–7662)
DWG Corporation
Common Stock, $0.10 Par Value (File No. 7–7663)
Fotomat Corporation
Common Stock, $0.10 Par Value (File No. 7–7664)
Genisco Technology Corporation
Common Stock, $0.50 Par Value (File No. 7–7665)
Giant Yellowknife Mines Limited
Common Stock, No Par Value (File No. 7–7666)
Golden West Homes, Inc.
Common Stock, No Par Value (File No. 7–7667)
Hershey Oil Corporation
Common Stock, $0.10 Par Value (File No. 7–7668)
International Controls Corporation
Common Stock, $0.10 Par Value (File No. 7–7669)
Macrodyne Industries, Inc.
Common Stock, $0.10 Par Value (File No. 7–7670)
Pennsylvania Engineering Corporation
Common Stock, $0.10 Par Value (File No. 7–7671)
Sargent Industries, Inc.
Common Stock, No Par Value (File No. 7–7672)
Solitron Devices, Inc.
Common Stock, $1.00 Par Value (File No. 7–7673)
Technical Tape, Inc.
Common Stock, $1.00 Par Value (File No. 7–7674)
Texscan Corporation
Common Stock, No Par Value (File No. 7–7675)
Western Savings and Loan Association
Common Stock, $1.00 Par Value (File No. 7–7676)
Wright-Hargreaves Mines, Limited
Common Stock, No Par Value (File No. 7–7677)
Yankee Oil & Gas Inc.
Common Stock, $0.10 Par Value (File No. 7–7678)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 14, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–20259 Filed 7–31–84; 8:45 am]
BILLIING CODE 8010–01–M

[Release No. 14062; 812–5484]

Kemper Tax-Exempt Insured Income Trust et al.; Filing of Application for an Amended Order for Exemption

July 25, 1984.

Notice is hereby given that Kemper Tax-Exempt Insured Income Trust (the "Trust") and Kemper Financial Services, Inc. ("Kemper Financial", collectively, "Applicants"), 120 South LaSalle Street, 22nd Floor, Chicago, IL 60603, filed an application on March 8, 1984, and an amendment thereto on July 12, 1984, for an amended order of the Commission, pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act"), for exemption from the provisions of sections 26(a)(2)(C) and 17(a) of the Act, respectively, and, pursuant to section 17(d) of the Act and Rule 17d–1 thereunder, to permit Applicants to participate in certain transactions with companies which might be deemed to be affiliated with Applicants. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicants request an amendment to an earlier order of the Commission granted in Investment Company Act Release No. 13394 (July 21, 1984), which permitted (1) Applicants to engage in certain transactions in which an affiliated company of Applicants was to participate with certain unaffiliated third parties in providing insurance for the Trust, (2) the Trust to purchase the insurance coverage and to accept any settlement which might arise from a claim made upon such insurance, and (3) the Trustee of the Trust to make (and deduct as a Trust expense) premium payments on the insurance,

notwithstanding the fact that a portion thereof might be deemed to be made to an affiliated person. In the present application, Applicants seek permission to participate in similar transactions which might include other affiliated companies, provided that the restrictions and conditions of the original order are met.

According to Applicants, as stated in the original application, the Trust is comprised of a series of unit investment trusts, all of which are similar but each of which is separate and designated by a different series number. Applicants state that each trust series is created under the laws of the State of Missouri pursuant to a Trust Indenture and Agreement between Kemper Financial as sponsor and Investors Fiduciary Trust Company ("Trustee"). Applicants also state that they invest in an insured, fixed portfolio of municipal bonds consisting of obligations of States of the United States and their political subdivisions and authorities.

Applicants further state that Kemper Financial, a Delaware corporation, is a wholly-owned subsidiary of Kemper Corporation ("Kemper"). According to Applicants, Kemper Financial acts as principal underwriter of each trust series at public offering prices based on a pro rata share of the offering prices of the municipal bonds in the portfolio of each Trust series plus a sales charge during the initial offering period and a pro rata share of the bid side prices of the bonds in the portfolio of such Trust series plus a sales charge for secondary market purposes.

Applicants represent that Kemper Financial, in response to market pressure and to compete on a more even basis in the unit investment trust area, would like to offer a series of unit investment trusts which could be insured, in part, by companies which might be deemed to be affiliated with Applicants. Applicants further represent that, because Kemper and/or companies affiliated with it have been active in providing insurance on municipal bonds which might be included in future series of the Trust or in the direct provision of insurance upon bonds deposited in the Trust, it would not be possible for the Trust to obtain insurance of the type it currently has in the marketplace without dealing with firms which could be deemed to be affiliated with Applicants.

Applicants assert that if insurance is acquired from any firm which might be deemed to be affiliated with Applicants, the insurance will involve payment by the Trust to the firm of a fee determined by the firm, which will be equal to or less than the rates currently being charged other sponsors of similar products. Applicants further assert that the insurance policy is non-cancellable and continues in force as long as the Trust is in existence, the insurer is in business, and the bonds continue to be held by the Trust. Applicants state that any insurance contract entered into by Applicants will be identical, or substantially identical, to the insurance currently being offered to other sponsors of insured municipal bond trusts. Any rates to be charged for such insurance are expected to be identical to or less than those offered other sponsors and will be determined by the insurer based on its own assessment of the market and the bonds to be included in the portfolio.

According to the application, the affiliated companies that might participate in such an insurance arrangement are all established, well capitalized, profitable firms. The application states that the maximum exposure which any affiliate will have in any proposed arrangement will be limited to either its ownership interest in the entity providing such insurance or, where the insurance is being provided in part directly by the affiliated company, its share of the interest and the principal due on the bonds. Because the maturity of the bonds is generally 20-30 years, there is enough time for the insuring firms, including any affiliate, to set aside necessary additional reserves if there is a default, or for the issuers to work out the default prior to maturity, eliminating the exposure.

According to the application, Kemper Financial, to eliminate any potential conflict of interest between itself, the Trust and any affiliated person of Kemper Financial or the Trust, undertakes, as a condition to the granting of the amended order that it will not sell any bond from the Trust's portfolio which might be deemed to be in imminent danger of default or which has in fact defaulted, on the payment of interest or principal due. In addition, Applicants agree, as a condition to the granting of the amended order, to seek staff approval prior to the time that the aggregate participation by all affiliated companies in any such insurance arrangement exceeds 10%. According to Applicants, this 10% limit would be applicable whether such interest was in the form of a direct commitment to provide insurance jointly with other unaffiliated parties or was in the form of an ownership participation in a third entity providing such insurance to the Trust.

Because the participation of any company which could be deemed to be an affiliate of Applicants in the provision of insurance to the Trust could be a joint arrangement between an investment company and affiliated persons thereof, Applicants request an exemption, pursuant to section 17(d) of the Act and Rule 17d–1 thereunder, permitting them to obtain insurance from such a company, provided the conditions referred to above are satisfied.

Applicants further request, pursuant to section 17(b) of the Act, an exemption from section 17(a) of the Act to the extent necessary to allow the participation of an affiliated company in the provision of insurance to the Trust, as principal, without its being deemed to be selling "property" to the Trust in violation of section 17(a)(1) and providing that, in the event of a default on a bond, the insurance companies acquiring an interest in either the coupons or principal of such bonds (because of the insurer's payment of monies due to the Trust which were not made by the issuer of the bond), would not be deemed to be a prohibited purchase under section 17(a)(2).

To the extent that the proposed transaction might involve the payment by the Trustee on an annual basis for the insurance premiums necessary to keep the proposed insurance in force, and because at least a portion of such payments might be deemed to be made to an affiliated person of the depositor of or principal underwriter of the Trust, Applicants further request, pursuant to section 6(c) of the Act an exemption from the provisions of section 26(A)(2)(C).

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 20, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-20261 Filed 7-31-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14047; 812-5800]

Liberty Housing Partners Limited Partnership, et al.; Filing of Application for an Order Exempting Applicants From all Provisions of the Act

July 24, 1984.

Notice is hereby given that Liberty Housing Partners Limited Partnership ("Partnership"), a Massachusetts limited partnership, and Liberty Real Estate Corporation ("Managing General Partner" collectively, "Applicants"), Federal Reserve Plaza, 600 Atlantic Avenue, Boston, MA 02210, filed an application on March 21, 1984, and an amendment thereto on July 6, 1984, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representation contained therein, which are summarized below.

Applicants represent that Partnership was formed in March, 1984, as a vehicle for private investment in government-assisted apartment complex projects in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). The Partnership proposes to operate as a "two-tier" partnership; i.e., the Partnership will invest in other limited partnerships ("Local Limited Partnerships"), that in turn, will be engaged in the development, rehabilitation, ownership and operation of housing for low and moderate income persons ("Projects"). Applicants further represent that, in all cases, the Partnership will invest in Local Limited Partnerships which will own apartment complex projects benefiting from some form of federal, state or local housing assistance, in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456").

According to the application, the General Partners of the Partnership are the Managing General Partner and LHP Associates Limited Partnership, an affiliate of the Managing General Partner. Applicants further expect that the Managing General Partner or one of its affiliates may be a co-general partner or special limited partner of some of the Local Limited Partnerships.

According to the application, the Partnership's investment objectives are (a) to provide current tax benefits in the form of tax losses which Limited Partners may use to offset income from other sources; (b) provide long-term capital appreciation through increases in the value of the Partnership's investments in Local Limited Partnerships; (c) provide cash distributions from sales or refinancings of apartment complexes owned by Local Limited Partnerships or from the sale of interests in Local Limited Partnerships; (d) preserve and protect the Partnership's capital; and (e) provide the potential for future cash distribution (on a limited basis) from the rental operations of Local Limited Partnerships.

Applicants state that the Partnership intends to offer publicly 20,000 units of limited partnership interest ("Units") at $500 per Unit with a minimum purchase of 10 Units per investor. Purchasers of the Units will become limited partners ("Limited Partners") of the Partnership. In addition, the Partnership has granted to Torchmark Securities Corporation ("Selling Agent") a right to sell (on the same terms and conditions as the other Units) up to 10,000 additional Units on behalf of the Partnership. Applicants assert that the Partnership expects to pay certain expenses and fees to the Managing General Partner and its affiliates and to unrelated third parties as well as establish a reserve for contingencies; the remainder of the amount available for investment will be invested in Local Limited Partnerships. Applicants state that subscriptions for Units must be approved by the Managing General Partner, and that such approval will be conditioned upon representations as to suitability of the investment for each subscriber.

According to the application, the Partnership will be controlled by its General Partners, pursuant to the Partnership agreement, and that the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the Partnership's business. The application states, however, that a majority in interest of the Limited Partners, without the concurrence of the General Partners, will have the right to amend the Partnership agreement in certain respects, to remove any General Partner, to approve or disapprove the sale or other disposition of all or substantially all of the Partnership's assets at one time and to dissolve the Partnership. Applicants further represent that those rights may not be exercised if, based upon an opinion of counsel or court of competent jurisdiction, their exercise will result in the loss of any Limited Partner's limited liability. Applicants further state that, under the Partnership agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Applicants state that, although none of the fees or other kinds of compensation to be paid to the General Partners or any of their affiliates were negotiated at arms-length, they assert that all such compensation will be fair and on terms no less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. Applicants further assert that such compensation will meet all applicable guidelines necessary to permit the Units to be offered and sold in the various states which prescribe such guidelines, including without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc., with respect to real estate programs. Applicants represent that, prior to the admission of purchasers of 4,000 Units as Limited Partners of the Partnerships, The First National Bank of Boston, as escrow agent, will invest all proceeds of the public offering in interest-bearing bank accounts, and, following the admission of such purchasers, the Partnership will invest any net proceeds not immediately utilized to acquire Local Limited Partnership interests or for other Partnership interests or for other Partnership purposes (such as the establishment of certain reserves of approximately 5% of the gross offering proceeds), in short-term debt securities, including United States government securities, securities issued by states or political subdivisions thereof, obligations of commercial banks having a net worth of at least $50,000,000, prime commercial paper and other short-term corporate obligations of comparable investment quality and repurchase agreements covering any of the foregoing securities. Applicants further represent that the Partnership does not intend to trade in temporary investments and will not speculate in any of the temporary securities.

Applicants state that the Partnership expects to file with the Commission, pursuant to Section 15(d) of the Securities Exchange Act of 1934, all required annual, quarterly and current reports on Forms 10-K, 10-Q and 8-K, respectively, as well as any other reports required by that Act. In addition,

Applicants state that the Partnership will distribute to the Limited Partners annual and quarterly reports, including balance sheets, statements of operations, statements of partners equity and statements of distributable cash from operations, concerning its business and operations.

In support of their request, Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form. Applicants assert that the limited partnership structure provides the only means of bringing private equity capital into government-assisted housing, particularly because public investors typically consider investment in low and moderate housing programs as involving greater risk than real estate investment generally.

Applicants further argue that interests in the Partnership will be sold only to relatively sophisticated investors who must meet specified suitability standards which the Partnership believes are consistent with the security laws of all states where the Units will be sold. Among the suitability standards is a requirement that investors will have some part of their income (without regard to investment in the Partnership) for the current year (and which is expected to continue in future years) subject to federal income tax at the rate of 40% or more, and that they have a net worth (exclusive of home, home furnishings and automobiles) of at least $50,000.

According to the application, the Partnership has disclosed all potential conflicts of interest between the General Partners and the Limited Partners in the prospectus. Applicants further assert that the Partnership agreement and prospectus contain various provisions designed to eliminate or significantly reduce these conflicts of interest. For example, the Partnership agreement prohibits the Managing General Partner, *inter alia*, from purchasing, selling or leasing property from or to any General Partner or any affiliate thereof, unless the purchase price paid by the Partnership is no greater than the cost of such property to the seller and no compensation or other benefit from the transaction accrues to any General Partner or affiliate thereof except as otherwise permitted by the Partnership agreement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 13, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-20258 Filed 7-31-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14046; 813-57]

PB-SB 1984 Investment Partnership V et al.; Application for Exemption, With Certain Exceptions, From All Provisions of the Act, for Confidential Treatment

July 24, 1984.

Notice is hereby given that PB-SB 1984 Investment Partnership V and PB-SB 1984 Investment Partnership V-A ("Initial Partnerships"), limited partnerships, and PB-SB Ventures Inc, One New York Plaza, New York, New York 10004, the general partner of the Initial Partnerships ("General Partner" and, together with the Initial Partnerships, "Applicants"), filed an application on February 24, 1984, and an amended application on July 16, 1984, pursuant to sections 6(b) and 6(e) of the Investment Company Act of 1940 ("Act") for an order exempting the Initial Partnerships and other limited partnerships which may be offered in the future to the same or similar classes of persons as will be eligible to invest in the Initial Partnerships ("Subsequent Partnerships" and, together with the Initial Partnerships, the "Partnerships") from each and every provision of the Act, other than sections 9, 17(a) and 17(d) (subject to certain exceptions), 36(a) 36(b) and 37 through 53 of the Act, and pursuant to section 6(c) of the Act for an order exempting the Partnerships from sections 6(b) and 2(a)(13) of the Act to the extent requested. Applicants further request confidential treatment under section 45(a) of the Act for certain reports which they have undertaken to file with the Commission. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the Rules thereunder for the text of the provisions which are relevant to a consideration of the application.

Applicants state that the organization of the Initial Partnerships was initiated by employees of the Salomon Brothers Inc ("Salomon") and its corporate parent, Phibro-Salomon Inc ("PSB") to enable certain officers and other employees of PSB, its subsidiaries and their successors in interest (collectively, the "Employers") to pool their resources and to invest in municipal securities. Each Partnership may also invest in short-term taxable obligations and engage in certain hedging activities. It is represented that Subsequent Partnerships, if established, will similiarly be limited to investing in the above securities.

Applicants state that participation in the Partnerships will be limited to current employees and certain retired employees of the Employers ("Eligible Persons") and certain other persons or entities described below. Each employee of an Employer (except non-U.S. resident foreign nationals) with an income of at least $200,000, including a salary from his respective Employer of at least $150,000 in the preceding year (or, if such employee was employed by an entity other than such Employer for part of such preceding year and has received a guarantee of at least $150,000 in income from his respective Employer for the current year, an income of at least $200,000 for the preceding year, including a combined income for the preceding year from such Employer and such other entity of at least $150,000) who is an "accredited investor" within the meaning of Regulation D promulgated under the Securities Act of 1933 ("Regulation D") will be permitted to become a limited partner of a Partnership ("Limited Partner"). In addition, certain retired employees who at the time of retirement meet all of the above criteria will be permitted to become Limited Partners if, at the time of becoming a Limited Partner, they are accredited investors within the meaning of Regulation D. Applicants claim that, because of the nature of the Employers' businesses, each person who meets the foregoing criteria will of necessity have substantial personal knowledge and experience with respect to financial matters so as to be able to perform the duties associated with his position at his respective Employer. Applicants represent that, in order to ensure that each Limited Partner will be a

sophisticated investor, each such person will also be required to represent to the General Partner and the Partnership, prior to becoming a Limited Partner of a Partnership, that he has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and material risks of his investment in such Partnership and is able to bear the economic risks of such investment and, in the case of a retired employee, the General Partner may require that such person be represented by a "purchaser representative" (within the meaning of Regulation D) who is independent of the Employers and the Partnership. The General Partner will also require updated representations of prospective Limited Partners, or of Limited Partners who desire to make additional capital contributions to a Partnership, will reserve the right to require additional representations of such persons and may require evidence permitting verification of such representations.

In addition to persons who meet the eligibility criteria set forth above, the following shall also be permitted to become Limited Partners of the Partnerships: (a) Any immediate family member of an eligible current employee who has the same principal residence as such employee; (b) any immediate family member (whether or not living in the same household) of an eligible current employee who is an "accredited investor" within the meaning of Regulation D; and (c) any trust for the benefit of one or more children of an eligible current employee; moreover, any person who has become a Limited Partner of a Partnership pursuant to clause (a), (b) or (c) will be permitted to remain a Limited Partner if the eligible employee from whom such person derives his eligibility subsequently retires so long as such eligible employee continues to meet the eligibility standards for retired employees. Applicants represent that, in the case of a person eligible to invest under clause (a) or (c) of the preceding sentence, the Eligible Person from whom such person derives his eligibility will be required to act as such person's "purchaser representative" (within the meaning of Regulation D) in connection with an investment in a Partnership. Applicants further represent that the Partnership will require that each of the foregoing persons who wishes to become a Limited Partner (together with the employee from whom such person's eligibility is derived) make representations regarding his investment in a Partnership which are substantially identical to the representations which will be required to be made by Eligible Persons who become Limited Partners.

Applicants state that management of the Partnerships will be exclusively vested in the General Partner, an indirect wholly-owned subsidiary of PSB and that all directors, officers and employees of the General Partner will be employees of the Employers. No compensation will be paid to the General Partner for its services other than for certain out-of-pocket expenses.

Applicants state that each Partnership will have one or more investment advisers ("Advisers") selected by the General Partner and retained by the Partnership pursuant to a written advisory agreement. Applicants represent that none of the Advisers will be affiliated with the General Partner, any officer or director of the General Partner, any of the other Advisers, any of the Limited Partners or the Employers. Each Partnership will pay the management fees of its Advisers.

Applicants have agreed to comply with sections 9, 17(a), 17(d), 36(a), 36(b) and 37 through 53 of the Act, with the following exceptions:

(1) that Sections 17(a) and 17(d) and Rule 17d–1 thereunder not apply to prohibit:

(a) each Adviser, acting on behalf of a Partnership, to engage in transactions with other Advisers and "affiliated persons" of such other Advisers. Applicants believe that, due to the Partnerships' employment of multiple Advisers and method of operation, in the absence of such exemptive relief, the Partnerships could not comply with Sections 17(a) and 17(d) and Rule 17d–1 thereunder. Applicants represent that each of the Advisers of the Partnerships will operate independently of, and will not be affiliated with, any of the other Advisers or the General Partner and its officers and directors, and the General Partner will not direct the Advisers' specific investments of Partnership assets. Applicants submit that there is not expected to be any exchange of information between or among the Advisers of a Partnership with respect to the Advisers' investments on behalf of the Partnership. Applicants represent that under no circumstances will the General Partner receive any compensation in connection with a transaction of the type for which exemptive relief is requested, and under no circumstances will any Adviser effect such a transaction with an affiliated person of such Adviser or (except as exemptive relief may otherwise be provided as requested in the application) with Salomon or another Employer or any of their respective affiliates.

(b) the Advisers, acting on behalf of a Partnership, to engage in transactions with Limited Partners and "affiliated persons" of Limited Partners (the Limited Partners and such affiliated persons collectively referred to as "Partner Affiliates"), and to participate in transactions in which Partner Affiliates may also be participating, which might constitute inadvertent violations of Section 17(a) and/or Section 17(d) and Rule 17d–1 thereunder. Applicants submit that the exemptive relief requested is necessary due to the number and sophistication of the potential Limited Partners of the Partnerships, most of whom have extensive involvement in the securities business. Applicants represent that the transactions for which exemptive relief is requested would be undertaken by the parties thereto without knowledge that such transactions might constitute violations of Sections 17(a) and/or 17(d). Applicants further represent that under no circumstances will any Limited Partner consult with any Adviser with a view to effecting a purchase or sale of securities prohibited by Section 17(a), or a joint transaction with a Partnership within the meaning of Section 17(d), and Applicants are not requesting exemptive relief for any such purchase, sale or joint transaction undertaken pursuant to an arrangement, agreement or understanding between a Limited Partner and any Adviser.

(2) that Section 17(a) not apply to prohibit each of the Parnerships, acting as principal, to purchase securities from and sell securities to Salomon, acting as principal and to enter into repurchase agreements with Salomon. The Applicants submit that, due to the fact that Salomon is currently one of the largest underwriters of, and one of the largest dealers in, municipal securities and acts as a market maker in a number of such securities, the Partnerships may, on occasion, be deprived of the opportunity of obtaining the best price and execution in the purchase or sale of their portfolio securities if the Partnerships are unable to deal with Salomon. Applicants also request that Section 17(a) not apply to prohibit the Partnerships from entering into transactions with Salomon involving the purchase and sale of short-term securities, and to enter into repurchase agreements with Salomon pending final investment of the Partnerships' liquid funds. Applicants contemplate that such short-term securities will be purchased from, or sold to, Salomon at market value without payment of brokerage

fees (other than reimbursement of expenses.) The Applicants state that neither the Partnerships nor their respective Advisers will have any obligation to deal with Salomon in purchasing or selling securities for the Partnerships and they undertake that the board of directors of the General Partner will review, on a regular basis, all of the transactions of the Partnerships in which Salomon is involved as a principal and, with full regard to its fiduciary responsibility to the Limited Partners, will make a determination that such transactions are being effected on an arm's length basis and that the terms of such transactions are fair and reasonable and do not involve any overreaching by Salomon to the detriment of the Partnerships or the Limited Partners. In addition, the General Partner specifically represents, with respect to this exemption requested, that it will maintain the records required by section 57(f)(3) of the Act and will comply with the provisions of section 57(h) of the Act. In this regard, Applicants note that all resolutions of the board of directors of the General Partner will be available for inspection by the Limited Partners.

(3) that Section 17(d) and Rule 17d–1 thereunder not apply to prohibit the Advisers, acting on behalf of the Partnerships, from participating in transactions in which Salomon, in the ordinary course of its business, may also be participating and which might constitute inadvertent violations of Section 17(d) and Rule 17d–1 thereunder. Applicants believe that the exemptive relief requested is necessary due to Salomon's extensive involvement, in the ordinary course of its business, in the municipal securities business. Applicants represent that each Adviser will independently manage the portion of a Partnership's assets allocated to it and neither the General Partner nor Salomon will direct the Advisers' specific investments of Partnership assets. Applicants further represent that under no circumstances will Salomon consult with any Adviser with a view to effecting a joint transaction within the meaning of Section 17(d) with the Partnership, and that Applicants are not requesting exemptive relief for any such joint transaction undertaken pursuant to an arrangement, agreement or understanding between Salomon and any Adviser.

As a condition to the granting of the order requested pursuant to sections 6(b) and 6(e) of the Act, Applicants agree to file with the Commission, within 120 days after the end of each partnership year, a copy of the annual report of each Partnership required by the terms of the partnership agreements to be sent to Limited Partners. Applicants also agree that, if and when the Commission adopts a revised Form N–1R, each of the Partnerships will file with the Commission reports on such revised Form N–1R in accordance with the instructions to such Form, and will send copies of such reports to its Limited Partners; provided, however, that no Partnership will be required to disclose in any such report the amount of the fees paid or payable to individual Advisers, or the method of calculating such fees. In connection with their undertaking to file such reports, Applicants request that such filings, except for filings of Form N–1R, be afforded confidential treatment under section 45(a) of the Act.

Applicants also request that the Commission enter an order pursuant to section 6(c) of the Act exempting the Partnerships from sections 6(b) and 2(a)(13) of the Act to the extent necessary to permit the Partnerships to admit as Limited Partners trusts for the benefit of children of eligible current employees ("Trusts") and sons-in-law and daughters-in-law of eligible current employees ("Relatives"). Applicants assert that since the eligible current employee from whom a Trust or Relative derives its eligibility to invest in the Partnerships will be required to act as the Trust's or Relative's "purchaser representative" (except for an eligible relative who is an "accredited investor" within the meaning of Regulation D), investment decisions will be made by sophisticated persons with substantial personal knowledge and experience with respect to financial matters. It is further asserted that permitting such Trusts and Relatives to become Limited Partners of the Partnerships is necessary to permit Eligible Persons to make investment decisions, on their own behalf and on behalf of their children, that are consistent with their estate and tax planning objectives. Applicant represents that the Partnerships will not directly solicit the participation of eligible Relatives.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 17, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–20260 Filed 7–31–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 14048; 812–5870]

PMG Housing Partners 1984–II; Application for an Order Pursuant to Section 6(c) of the Act for Exemption From all the Provisions of the Act

July 24, 1984

Notice is Hereby Given that PMG Housing Partners 1984–II (the "Partnership" or "Applicant"), Suite 300, 5855 Topanga Canyon Blvd., Woodland Hills, California 91367, a California limited partnership, formed under the California Uniform Limited Partnership Act to invest in other limited partnerships ("Local Limited Partnerships"), which will own and operate government assisted rental housing in accordance with the objectives and policies of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"), filed an application on June 8, 1984, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting the Partnership from all provisions of the Act and regulations promulgated thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the applicable statutory authority.

The Partnership was formed on January 30, 1984, by the individual general partners ("General Partners") as a vehicle for equity investment in government assisted rental housing in conformance with the criteria and purposes set forth in Investment Company Release No. 8456 (August 9, 1984) (the "Release"). Applicant, in reliance upon Regulation 17 CFR 230.506 ("Regulation D") under section 4(2) of the Securities Act of 1933, intends to offer $5,400,000 of 60 limited partnership interests at $90,000 each ("Units"); purchases of less than one Unit may be

accepted by the General Partners and Applicant's Units may be held by more than 100 investors. Selected qualified broker-dealers will offer Units to investors who satisfy the investor suitability requirements set forth in the Private Placement Memorandum ("Private Placement Memorandum"), an exhibit to the application. Purchasers of Units must represent, inter alia, an ability to bear the economic risk of the investment, an income or net worth in compliance with the Private Placement Memorandum. Purchasers must also be persons who the selling broker-dealer has reasonable grounds to believe, and shall believe, have such knowledge and experience in financial and business matters that are capable of evaluating the merits and risks of the prospective investment. Units may also be sold to accredited investors within the provisions of Regulation D.

The Partnership will acquire limited partnership interests in the Local Limited Partnerships; a corporate affiliate of the General Partners will act as a special limited partner in four of the Local Limited Partnerships and as a general partner in the fifth. Through its interests in the Local Limited Partnerships, Applicant intends to realize: (1) A potential increase in its equity in the property owned by the Local Limited Partnerships through amortization of the mortgage indebtedness to which the Local Limited Partnerships' property is subject; (2) cash flow from operations; (3) potential appreciation in the value of the properties; (4) cash distribution from refinancing; and, (5) certain tax benefits. Applicant asserts that the Partnership is organized as a limited partnership because that is the only form of entity that provides investors with the ability to claim certain tax benefits and limits investor liabilities to the amount of their capital contribution. While the Partnership's control over the management of Local Limited Partnerships will be restricted, the General Partners' corporate affiliate will have control over fundamental matters such as the sale or refinancing of property owned by the Local Limited Partnerships.

Management of the Partnership, pursuant to the Partnership Agreement, is conferred solely to the General Partners. While the limited partner investors are not entitled to participate in the daily business management of the Partnership, a majority in interest of the limited partners have the right to amend the Partnership Agreement, remove General Partners and elect replacements review all books and records of the Partnerships, obtain the names and addresses of other limited partners, and, upon a vote of 80% in interest, the power to dissolve the Partnership, provided such action does not adversely affect the tax status or limited liability of limited partners.

Applicant asserts exemption from section 6(c) of the Act is necessary, in order to promote the development and building of housing for low to moderate income persons. The five properties in which the Local Liminted Partnership will invest are: (a) Three West Virginia residential developments each of which will be assisted by a permanent mortgage loan pursuant to section 515 of the Housing Act of 1949, and two of which are assisted by a construction loan made by the West Virginia Housing Development Fund; (b) a Pennsylvania housing development assisted by a permanent mortgage loan made by the Pennsylvania Housing Finance Agency; and (c) an Ohio apartment complex assisted by a permanent mortgage loan insured by the Department of Housing hand Urban Development pursuant to section 221 (d)(4) of the National Housing Act. The Ohio property, Applicant represents, is, and will continue to be operated and managed in conformance with the Congressional purpose and intent set forth in section 221 of the National Housing Act in general, and section 221(d)(4) in particular.

Applicant also asserts that exemption is proper under the Release because the General Partners will deal fairly with the limited partners and the Partnership Agreement contains numerous provisions designed to insure fair dealing by the General Partners with the limited partners. All compensation to be paid to the General Partners and their affiliates is fully disclosed in the Private Placement Memoradum, and although not determined in arms-length negotiation, the General Partners believe the compensation to be fair and on terms no less favorable to the Partnership that would be in the case if such compensation had been paid with respect to independent third parties. Moreover, the Partnership believes such compensation complies with all applicable guidelines necessary to permit the Units to be offered and sold in the various states in which the Partnership intends the Units to be offered and sold. Applicant also asserts that all potential conflicts of interests between the General Partners and limited partners will be disclosed to purchasers.

Certain restrictions are imposed on the General Partners by the Partnership Agreement, including prohibitions against: Performing any act in violation of any applicable law or regulation thereunder; performing any act required to be approved or ratified in writing by all limited partners under the California Uniform Limited Partnership Act, unless the right to do so is expressly otherwise given in the Partnership Agreement; selling or otherwise dispose of at any one time all or substantially all of the Partnership's interest in the Local Limited Partnerships or of the assets of the Partnership without the consent of a majority in interest of the limited partners; causing the Partnership to borrow funds from a General Partner or an affiliate thereof except at the then existing market rate; withdrawing as a general partner without the consent of a majority in interest of the limited partners; or, admiting a successor or additional general partner without the consent of a majority in interest of the limited partners. A majority in interest of the limited partners also have the power to remove a General Partner for breach of his fiduciary duty, and to nominate a successor therefor.

Without conceding that the Partnership constitutes an investment company under the Act, the Applicant requests that the Partnership be exempted from all provisions of the Act pursuant to Section 6(c) of the Act. Applicant claims that such exemption is both necessary and appropriate in the public interest and would be consistent with the protection of investors and the purposes and policies underlying the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 20, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the applicant will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirly E. Hollis,

Assistant Secretary.

[FR Doc. 84-20257 Filed 7-31-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21174; File No. SR-OCC-84-11]

Self-Regulatory Organizations; Filing of Proposed Rule Change of Options Clearing Corporation

July 26, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 6, 1984, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend OCC's By-Laws [1] to provide specifically that a clearing member's cash clearing fund contribution may be deposited in a segregated funds account [2] at a bank designated by the clearing member and approved by OCC.[3] Although for several years OCC has allowed clearing members to use segregated funds accounts for cash clearing fund contributions [4] OCC intends this proposed rule change to provide specifically for these accounts in its By-Laws. The proposal provides that a clearing member shall bear any risk of loss of funds deposited in its segregated funds account and any interest paid on the account shall accrue to the clearing member.[5] OCC believes it is appropriate for clearing members to bear the risk of loss of funds in such accounts because each clearing member selects the depository institution to maintain the member's segregated funds accounting.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because it enhances OCC's system for safeguarding funds in its custody or control and relieves OCC of a risk to which it might otherwise be subject.

In order to assist the Commission in determining whether to approve the proposed rule change or to institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-OCC-84-11.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-20256 Filed 7-31-84; 8:45 am]

BILLING CODE 8010-01-M

[1] Article VIII, Sections 3 and 4 of OCC's By-Laws.

[2] A "segregated funds account" is a demand deposit account containing solely the cash clearing fund contribution of the clearing member. The account is maintained in the name of OCC and is subject to OCC's exclusive control. However, the account record reflects the name of the clearing member for whom the account was established. OCC and the clearing member may make deposits to the account, but only OCC may withdraw such funds. OCC and the bank must enter into an agreement in order to establish a segregated funds account. This agreement provides that funds in the account shall be segregated from all other funds deposited with the bank by OCC or the clearing member. The agreement also provides that funds in the account shall not be subject to any lien, charge, security interest, claim, or right of set-off in favor of the bank or any person claiming through the bank. However, the agreement does create an exception for security interests that may be granted to the bank by OCC to secure borrowings authorized by Article VIII of the OCC's By-Laws.

[3] The proposed rule change also moves a provision from Article VIII, section 4 to section 3 that provides that interest accrued on contributions of government securities, evidenced by the delivery of depository receipts to OCC, shall belong to the contributing clearing member.

[4] *See* File No. SR-OCC-81-4, Securities Exchange Act Release No. 17938 (July 13, 1981), 46 FR 37842 (July 22, 1981). OCC states in its filing that a bank that provides segregated funds accounts typically agrees with a clearing member to treat deposits in these accounts as compensating balances and offers the clearing member reduced financing costs in exchange for the segregated funds account deposits.

[5] Current Article VIII, section 4 of OCC's By-Laws provides that OCC may invest cash clearing fund contributions in government securities or in special accounts in approved depositories. That current section, however, provides that the interest or gain received on the investment or deposit of such cash contributions shall belong to OCC. The proposed rule change maintains those provisions as subsection (a) and adds a new subsection (b) to section 4 to provide for segregated funds accounts.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2161]

Declaration of Disaster Loan Area; Pennsylvania

Lancaster County and the adjacent County of York in the State of Pennsylvania constitute a disaster area because of damage caused by flash flooding which occurred on July 1, 1984. Applications for loans for physical damage may be filed until the close of business on September 24, 1984, and for economic injury until the close of business on April 25, 1985, at the address listed below: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., SW., Atlanta, GA 30303.

or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 216106 for physical damage and for economic injury the number is 619700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 25, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-20305 Filed 7-31-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2644-6]

Protocol to the Proposed Convention for the Protection of the Ozone Layer Negotiated Under the United Nations Environment Programme; Meeting

AGENCY: Department of State (State Department) and U.S. Environmental Protection Agency (EPA).

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS) and to conduct a public scoping meeting.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) and in furtherance of Executive Order 12114 (E.O. 12114), "Environmental Effects Abroad of Major Federal Actions," the State Department and EPA give notice that they are jointly preparing a draft EIS on a chlorofluorocarbon (CFC) control protocol (Protocol) to the proposed "Convention for the Protection of the Ozone Layer" (Convention) being negotiated under the auspices of the United Nations Environment Programme (UNEP). The Protocol is currently being negotiated among the United States (U.S.) and other U.N. member nations for the purpose of instituting specific measures to protect the ozone layer of the earth's atmosphere. EPA is participating with the State Department in these negotiations. If concluded, the Protocol will be adopted and opened for signature of UNEP members.

E.O. 12114 requires the preparation of an EIS for major Federal actions that could significantly affect the environment of the global commons outside the jurisdiction of any nation (Sections 2–3(a) and 2–4 (b)(i)). Guidance published by the Council on Environmental Quality specifically includes major Federal actions significantly affecting stratospheric conditions in areas ouside the jurisdiction of any nation as an example of the global commons (44 FR 18722; March 25, 1979). Because any Protocol is likely to include measures that could significantly affect the ozone layer, the State Department has determined as a matter of policy that U.S. adherence to the Protocol should be treated as a major Federal action necessitating the preparation of an EIS under the E.O. 12114 and NEPA. The preparation of this EIS, however, does not commit the U.S. to any particular final position concerning the contents of a Protocol.

The draft Convention, which is also currently being negotiated by the U.S. and other nations, is a global agreement that would provide a framework for cooperative research; monitoring, and information exchange. It also allows for the possible adoption of specific control measures in the future through the addition of Protocols. The State Department has determined that the activities currently called for under the proposed Convention would not significantly affect the environment inside or outside the U.S., and therefore does not require further review under E.O. 12114 or NEPA. Thus, only a possible Protocol, and not the proposed Convention, will be evaluated in the EIS. If future actions are later proposed under the Convention that might cause significant environmental effects, an environmental review of those activities under the Convention could then be prepared, if appropriate.

The State Department and EPA invite interested agencies, organizations, and members of the public to submit comments or suggestions for consideration in connection with the preparation of the draft EIS. A "scoping" meeting has been scheduled to assist the State Department and EPA in identifying significant environmental issues and comments relating to the appropriate scope of the draft EIS are requested. Comments may be presented at this meeting or submitted to the State Department at the address given below.

On completion of the draft EIS, its availability will be announced in the **Federal Register** and comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meeting may be submitted to Sally Valdes-Cogliano, Room 4325, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, Washington, D.C. 20520. (202) 632–2311. Draft copies of the proposed Convention and Protocol can be obtained from this address.

DATES: Written comments postmarked by August 20, 1984 will be considered in the preparation of the draft EIS. Comments postmarked after that date will be considered to the maximum extent practicable. A scoping meeting will be held at the East Auditorium of the State Department on August 13 starting at 9:00 A.M. Requests to speak at this meeting should be received by August 10. Requests to speak may also be made during registration commencing one hour before the start of the meeting.

Interested parties who do not wish to submit comments or suggestions at this time, but who would like to receive a copy of the draft EIS for review and comment should contact the State Department at the above address.

SUPPLEMENTARY INFORMATION:

Considerable research shows that CFC emissions may be associated with the depletion of stratospheric ozone in the earth's atmosphere. If such depletion occurs, it would result in increases in solar UV–B radiation and possibly changes in climate. Although much uncertainty exists as to the likely magnitude and consequences of any such changes, modification of the earth's ozone layer and climate could pose potentially serious health and environmental risks. For example, according to the most recent National Academy of Sciences study of this subject (*Causes and Effects of Changes in Stratospheric Ozone: Update 1983*), an increase in UV–B radiation could lead to an increased incidence of non-melanoma and melanoma skin cancer in humans. The report also suggests a link between exposure to UV–B radiation and depression of the general human imumne responsive system which could increase the incidence of secondary diseases. It also indicates that increased UV–B radiation may adversely affect the yield of certain food crops and that such increases could harm marine organisms. Climatic effects are also possible from increases in CFC emissions and modification of the ozone layer, but the extent of the effects is uncertain. EPA is currently reviewing this and related scientific information, and plans shortly to publish a **Federal Register** notice summarizing its current assessment.

Protection of the ozone layer has been a long-standing concern of UNEP and its member states. At the 1981 Montevideo Senior Level Meeting on Environmental Law, this subject was recommended as a priority for future work within UNEP. On the basis of this recommendation, the UNEP Governing Concil established the *Ad Hoc* Working Group of Legal and Technical Experts, which in 1982 began negotiating a global framework Convention for the Protection of the Ozone Layer. If adopted, the Convention would establish general provisions for cooperation on research, monitoring, and information exchange.

The proposed Convention also contains provisions for separately adopting measures, in the form of protocols, to control emissions of substances that may affect the ozone layer. Work on the protocol now under consideration began in 1983. This proposed protocol would establish specific obligations for controlling, limiting, reducing, or banning certain uses of CFCs. Working Group discussions on this protocol have focused primarily on a ban on non-essential uses of CFCs in aerosols. The U.S. instituted such a ban in 1978 (43 FR 11502; March 17, 1978). Since that time a number of other countries have adopted similar restrictions on non-essential uses of CFCs in aerosols, while other countries have instituted partial aerosol bans.

This draft EIS will analyze the impacts of a global ban on non-essential aerosol uses of CFCs and other alternatives that are feasible within the context of the present multilateral negotiations on a protocol.

Preliminary Definition of Alternatives: There are a number of possible approaches to a Protocol. The State Department and EPA believe that the following alternatives represent a reasonable range of alternatives to be examined in the draft EIS:

Alternative 1—No action i.e., no Protocol: Under this alternative, the U.S. and other countries fail to agree to a Protocol and therefore no control measures are instituted.

Alternative 2—Total ban: The parties could agree to a Protocol consisting of a total ban on non-essential aerosol uses of CFCs.

Alternative 3—Phased-in controls: The parties could agree to a Protocol consisting of various combinations of phased-in controls on non-essential aerosol uses of CFCs.

Alternative 4—Limits on other uses or substances: The parties could agree to a Protocol consisting of limits or controls on uses of CFCs other than non-essential aerosols and/or on potential ozone depleting substances other than CFCs (e.g., carbon tetrachloride, methyl chloroform, etc.).

Alternative 5—Other options: The parties could agree to a Protocol consisting of alternatives to emission limits or controls, including production capacity limits, and research and development options.

Because the proposed Protocol is the subject of ongoing multilateral negotiations, a preferred alternative among the control options will not be identified in the draft EIS. Comments on the scope and definition of these alternatives, as well as suggestions on other reasonable alternatives for the State Department and EPA to consider in the draft EIS are invited through use of the "scoping" process described below.

Preliminary List of Issues: The State Department and EPA propose to examine the following issues in the draft EIS:

—Relationship of CFC emissions and other atmospheric perturbants to depletion of ozone and to changes in the vertical column of ozone in the earth's atmosphere.
—Effects of alternative Protocol options on potential increases in UV–B radiation:
—Potential health effects
—Potential plant and animal effects, including effects on marine organisms and food crops
—Potential damages to materials
—Potential quality of life impacts
—Effects of alternative Protocol options on potential changes in climate
—Socio-economic effects of alternative Protocol options:
—Costs associated with potential effects on human health, food crops, aquatic life, and materials damage.
—Potential effects associated with using FCF substitutes.
—Potential impacts on U.S. trade and foreign subsidiaries.

The draft EIS will examine direct, indirect, short-term and long-term effects of the proposed alternatives, along with possible mitigation actions. The many uncertainties underlying the analysis will be addressed in the draft EIS. To the extent possible, the environmental effects of the alternatives will be evaluated on a global scale, and quantitative estimates will be provided wherever possible. Related socioeconomic issues will be examined on a U.S. domestic level as required under NEPA.

Interested parties are invited to participate in the scoping process discussed below to help refine this list so as to arrive at the significant issues to be analyzed in depth in the draft EIS and to eliminate from detailed study the issues that are not significant.

Scoping: The scoping process will involve all interested Federal agencies, groups, and members of the public. The scoping meeting will be an informal session presided over by representatives of the State Department and EPA. The State Department will establish procedures governing the conduct of the meetings. The meetings will provide an opportunity for comments and questions, but will not be conducted as evidentiary hearings. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, the State Department may allow longer times for representatives of organizations. Persons wishing to speak on behalf of an organization should identify the organization in their request. Persons who have not submitted a request to speak in advance may request to speak at the scoping meeting, but will be called on to present their comments only if time permits. Both oral and written comments will be considered and will be given equal weight. Written comments and a transcript of the scoping meeting will be available for public inspection at Room 4325 at the State Department and at the Central Docket Section at EPA.

FOR FURTHER INFORMATION CONTACT:

Sally Valdes-Cogliano, U.S. Department of State, (202) 632–2311

Stephen Seidel, U.S. Environmental Protection Agency, (202) 382–2787

Dated: July 26, 1984.

Mary Rose Hughes,

Deputy Assistant Secretary of Environment, Health, and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State.

Dated: July 25, 1984.

John C. Topping,

Acting Assistant Administrator for Air and Radiation, U.S. EPA.

[FR Doc. 84–20337 Filed 7–31–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Water Ingestion Testing for Turbine Powered Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed Advisory Circular 20–XX, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) concerning the ingestion of water from the runway/taxiway surface into the airspeed system, the engine, and essential auxiliary power unit air inlet ducts of turbine engine powered airplanes.

DATE: Comments must be received on or before October 1, 1984.

ADDRESS: Send all comments to the proposed AC to: Federal Aviation Administration, Attention: Regulations and Policy Office, ANM–110, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Neil Schalkamp, Regulations and Policy Office, at the above address, telephone (206) 431–21135.

SUPPLEMENTARY INFORMATION: .

Comments Invited

A copy of the proposed AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. Interested persons are invited to comment on the proposed AC by submitting such written

data, views, or arguments as they may desire. Commenters must identify AC 20–XX and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Regulations and Policy Office before issuing the final AC.

Discussion

Airplane turbine engines are susceptible to surge, stall, and flameout when they ingest excessive quantities of water spray from runway surfaces. The quantity of water may exceed the amount used in the engine certification testing. Also, water impingement on the external parts of the airspeed system may cause system malfunctions during takeoffs and landings. The proposed AC describes a method of demonstrating compliance with the requirements of the Federal Aviation Regulations concerning the ingestion of water from the runway surface into the airspeed system, the engine, and auxiliary power unit air inlet ducts of turbine powered airplanes.

Issued in Seattle, Washington, on July 17, 1984.

Leroy A. Keith,

Manager, Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 84–20231 Filed 7–31–84; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

[Docket No. S–758]

American President Lines, Ltd.; Application To Amend Service Description of Operating-Differential Subsidy Contract

Notice is hereby given that American President Lines, Ltd. has by letter dated July 18, 1984, requested amendment of its Line A, Line B, and Extension services as set forth in its Operating-Differential Subsidy Agreement, Contract MA/MSB–417 so as to provide service with subsidized vessels from foreign ports in the above-described services to Guam, with up to 26 Guam calls per annum.

American President Lines currently provides transpacific services with 15 container vessels and four breakbulk general cargo vessels on its subsidized Line A (California/Far East), and Line B (Washington-Oregon/Far East), and Extension (Southeast and South Asia and Persian Gulf-Red Sea) services. The operator has Guam privileges for domestic cargo movements and for service between Guam and the Philippines, limited to not more than a total of 26 calls annually at Guam.

Recognizing the presence of other U.S.-flag liner operators providing service in the transpacific trade encompassing the area of the proposed additional service of APL, the Maritime Subsidy Board perceives no other direct existing service to Guam from foreign areas on APL's subsidized service.

APL has submitted figures on the trade in question obtained from official sources on Guam, that are as follows:

ASIA TO GUAM MARKET TEU'S ANNUALLY [1]

Japan	999
Korea	54
Hong Kong	614
Taiwan	821
Manila	262
Other	25
Total TEU's	2,775

[1] Six months 1982, annualized.

All 2,775 TEU's moved on foreign-flag vessels.

Interested parties are directed to show cause why the APL application should not be granted, including in any response:

1. Any annual trade figures at variance with, or in amplification of, the APL-submitted figures shown above.

2. A complete description of, and timetable for implementation of, any firm and definite plans for serving the trade in question.

Any person, firm, or corporation having any interest in such application and desiring to show cause why the application should not be granted by the Maritime Subsidy Board should submit such showings in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, DC 20590 by the close of business on August 17, 1984.

Any party requesting a hearing under section 605(c) of the Merchant Marine Act, 1936, as amended, is to indicate the basis for any such hearing by addressing the issue on which comments are specifically invited. Unless such party provides specifics the Board may determine there is an insufficient basis to order a hearing on American President Lines' application. Any specifics will be considered in determining whether a hearing is required. In any event, the Board will consider the submissions of all interested parties and will determine the disposition to be made of the matter hereby noticed.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

Dated: July 27, 1984.

Georgia P. Stamas,

Secretary.

[FR Doc. 84–20356 Filed 7–31–84; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 21–84]

Interest Rates on Treasury Notes of Series W–1986

Washington, July 26, 1984.

The Secretary announced on July 25, 1984, that the interest rate on the notes designated Series W–1986, described in Department Circular—Public Debt Series—No. 21–84 dated July 19, 1984, will be 12-⅝ percent. Interest on the notes will be payable at the rate of 12-⅝ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 84–20312 Filed 7–30–84; 8:45 am]

BILLING CODE 4810–40–M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 27, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7316, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0676
Form Number: IRS Form 6317
Type of Review: Revision
Title: Volunteer Assistor's Guide Trainee Evaluation

OMB Number: 1545–0455
Form Number: IRS Form 6318
Type of Review: Revision
Title: Volunteer Assistor's Instructor Evaluation

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive

Office Building, Washington, D.C. 20503.

U.S. Customs Service

OMB Number: 1515–0078
Form Number: Customs Form 1302 & 1302–A
Type of Review: Extension
Title: Cargo Declaration and Cargo Declaration (Outward with Commercial Forms)
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph Maty,
Departmental Reports, Management Office.

[FR Doc. 84–20366 Filed 7–31–84; 8:45 am]
BILLING CODE 4810–25–M

Customs Service

Bureau of Alcohol, Tobacco and Firearms

[T.D. 84–168]

Customs/BATF Agreement—Distilled Spirits Plants

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This document sets forth a memorandum of understanding between the Customs Service and the Bureau of Alcohol, Tobacco and Firearms (BATF), whereby the BATF will perform, on behalf of the Customs Service, the verification of quantities of imported bulk liquor entered at distilled spirits plant locations. Implementation of this agreement will result in substantial improvement in the Treasury Department's overall control of distilled spirits plants. It will not require any changes in the regulations of either agency or have any significant impact upon the distilled spirits industry.

EFFECTIVE DATE: July 13, 1984.

FOR FURTHER INFORMATION CONTACT: Matt Krimski, Regulatory Audit Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–2812).

Memorandum of Understanding

Purpose

To establish an agreement whereby the Bureau of Alcohol, Tobacco and Firearms will perform, on behalf of the U.S. Customs Service, the verification of quantities of imported bulk distilled spirits entered at distilled spirits plant locations.

Background

Since 1971, officers of the Bureau of Alcohol, Tobacco and Firearms (BATF), acting as Customs Inspectors, have received imported bulk spirits distilled spirits plants (DSP's) under the "immediate delivery" procedure. The concept of a joint gauge by one Treasury officer to determine the quantity of imported bulk spirits for duty purposes as well as tax purposes has served both agencies well for over 10 years.

In 1980, BATF began phasing out officers located at DSP's as a result of the provisions of Title VIII of the Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 273), which eliminated the statutory requirement for onsite supervision by Treasury officers at DSP's. The amendments contained in Title VIII made onsite supervision and the use of Government locks and seals optional at the discretion of the Secretary of Treasury. This discretionary authority permits the Secretary to continue to assign Treasury officers and require Government locks at plants where necessary, but it is intended to eliminate this control where it is not needed.

General Authorities

31 U.S.C. Section 321.

Interagency Coordination

Customs will continue to process entries and collect duties on bulk distilled spirits entering DSP facilities. Customs may on occasion elect to observe the gauging practices of DSP operators at their premises.

BATF will verify the imported quantities furnished to Customs for entry purposes utilizing whatever methods they deem necessary to ensure adequate revenue protection. BATF will furnish reports to Customs on an exception basis, i.e., in those instances where a BATF examination identifies a problem. Based on the information contained in the BATF reports Customs will initiate appropriate action.

Justification

The Treasury Department's mission effectiveness and cost efficiency in its control of DSP's will be improved as follows:

BATF places greater emphasis on accounting for alcohol as it is BATF's responsibility to protect and collect the Internal Revenue Tax of $10.50 per proof gallon, while Customs collects a duty of 50¢ per proof gallon on imported alcohol.

BATF's cost/time expenditures to verify import information would be less than that incurred by Customs since both audit and inspection duties of Customs can be integrated into BATF's present DSP program thus eliminating duplicative cost.

Implementation

This agreement will not require any changes in regulations concerning DSP operations. The impact on the distilled spirits industry will be negligible. Notice, via the **Federal Register**, will be given to DSP operators setting forth the Department's new Policy within 120 days of completion of this agreement.

Dated: March 29, 1984.

Alfred R. De Angelus,
Acting Commissioner, U.S. Customs Service.

Dated: March 19, 1984.

Stephen E. Higgins,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 84–20304 Filed 7–31–84; 8:45 am]
BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains extensions and a reinstatement and lists the following information: (1) The Department or Staff Office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (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 fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 27, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Application for Annual Clothing Allowance
3. VA Form 21–8678
4. On occasion
5. Individuals or households
6. 6,720 responses
7. 1120 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Pension Claim Questionnaire for Farm Income
3. VA Form 21–4165
4. On occasion
5. Individuals or households
6. 25,000 responses
7. 12,500 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Statement of Witness to Accident
3. VA Form Letter 21–806
4. On occasion
5. Individuals or households
6. 13,200 responses
7. 4,400 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Application for Dependency and Indemnity Compensation by Child
3. VA Form 21–4183
4. On occasion
5. Individuals or households
6. 7,900 responses
7. 1,975 hours
8. Not applicable

Extension

1. Department of Medicine and Surgery
2. Application for Medical Benefits for Dependents or Survivors—CHAMPVA
3. VA Form 10–10d
4. Recordkeeping requirement
5. Individuals or households
6. 6,500 responses
7. 780 hours
8. Not applicable

Reinstatement

1. Department of Veterans Benefits
2. Report of Home Loan Processed on Automatic Basis
3. VA Form 26–1820
4. On occasion
5. Individuals or households
6. 100,000 responses
7. 50,000 hours
8. Not applicable

[FR Doc. 84–20291 Filed 7–31–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 149
Wednesday, August 1, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday August 6, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendation, pursuant to section 10(b) if the Federal Deposit Insurance Act, that the Corporation examine a certain state member bank:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii).

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Request for reconsideration of a previous denial of an application for consent to establish a branch:

Centennial State Bank of Colorado, Englewood, Colorado, for reconsideration of its application for consent to establish a branch at 5353 South Federal Boulevard, Littleton, Colorado.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 30, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84–20459 Filed 7–30–84; 3:58 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 6, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Landmark Thrift and Loan Association, an operating noninsured industrial bank located at 8666 Lake Murray Boulevard, San Diego, California.

Application for Federal deposit insurance for a United States branch of a foreign bank:

Hongkong and Shanghai Banking Corporation, Hong Kong, for Federal deposit insurance of deposits received at and recorded for the account of its proposed United States branch to be located at 5–7 East 59th Street, New York, New York.

Application for consent to purchase assets and assume liabilities and establish one branch:

The Bank of Bethune, Bethune, South Carolina, for consent to purchase the assets of and assume the liability to pay deposits made in the McBee, South Carolina, branch of First National Bank of South Carolina, Columbia, South Carolina, and for consent to establish that branch as a branch of The Bank of Bethune.

Application for consent to transfer assets in consideration of the assumption of deposit liabilities:

NBD Port Huron Bank, National Association, Port Huron, Michigan, for consent to transfer certain assets to First Federal Savings Bank and Trust, Pontiac, Michigan, a non-FDIC-insured institution, in consideration of the assumption of the liability to pay deposits made in NBD Port Huron Bank, National Association.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,053–L
United American Bank in Knoxville, (Amendment No. 3) Knoxville, Tennesee
United American Bank in Hamilton County, Chattanooga, Tennessee
Case No. 46,087–L
First Commerce Bank of Hawkins County, Rogersville, Tennessee
First Peoples Bank of Washington County, Johnson City, Tennessee

City and County Bank of Knox County, Knoxville, Tennessee
City and County Bank of Anderson County, Lake City, Tennessee
City and County Bank of Roane County, Kingston, Tennessee

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda: No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 30, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84–20460 Filed 7–30–84; 3:58 pm]

BILLING CODE 6714–01–M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 11:00 a.m., Monday, August 6, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed building design plans and budget for the Los Angeles Branch of the Federal Reserve Bank of San Francisco.
2. Issues relating to Federal Reserve notes.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–20384 Filed 7–30–84; 10:41 am]

BILLING CODE 6210–01–M

4

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 10–84.
Announcement in Regard to Commission Meetings and Hearings.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Oral Hearings on objections to decisions issued under the Second Czechoslovakian Claims Program:

Tues., Sept. 11, 1984 at 9:30 a.m.:
CZ–2–1332—Georgia Kadlec
CZ–2–1325—John Palovcak
Wed., Sept. 12, 1984 at 9:30 a.m.:
CZ–2–1012—Joe Rossenwasser
CZ–2–1021—Renate Schaefer, George Sormer
Thurs., Sept. 13, 1984 at 9:30 a.m.:
CZ–2–0890, CZ–2–0891—Anne Knapik & Anna Dzema
CZ–2–0993—Stephen & Zolton Gocalo, Pauline Birko
Tues., Sept. 18, 1984 at 9:30 a.m.:
CZ–2–0684—George Gasper, Helen Pancurak
CZ–2–0817—Georginia Schneider
Wed., Sept. 19, 1984 at 9:30 a.m.:
CZ–2–0669—Ernest Stadler,
CZ–2–0663—Amalia Pavlovec
Thurs., Sept. 20, 1984 at 9:30 a.m.:
CZ–2–0432—Marko Neuman,
CZ–2–0555—Anna Micanko

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, D.C. on July 30, 1984.

Judith H. Lock,

Administrative Officer.

[FR Doc. 84–20457 Filed 7–30–84; 3:58 pm]

BILLING CODE 4410–01–M

5

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 9–84.
Announcement in Regard to Commission Meetings and Hearings.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Oral Hearings on objections to decisions issued under the Second Czechoslovakian Claims Program:

Tuesday, Aug. 7, 1984 at 9:30 a.m.:
CZ–2–0654—Elizabeth Yanok
CZ–2–1286—John Yacechko
Wednesday, Aug. 8, 1984 at 9:30 a.m.:
CZ–2–0462—Andrew Valiga, et al.
CZ–2–1268—Lawrence Bell
Thursday, Aug. 9, 1984 at 9:30 a.m.:
CZ–2–0375—Matilda Rosenstein
CZ–2–0144—Anna Bondy
Tuesday, Aug. 14, 1984 at 9:30 a.m.:
CZ–2–0151—Mary Mraz
CZ–2–1192—George Horansky on behalf of Michael Thomas Horansky (a minor)
Wednesday, Aug. 15, 1984 at 9:30 a.m.:
CZ–2–0049—Joseph Valent, Mary Tsempales & Rose Chovanec
CZ–2–0612—Adriena Linehan
Thursday, Aug. 16, 1984 at 9:30 a.m.:
CZ–2–1112—George Vican

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111–20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, D.C. on July 30, 1984.

Judith H. Lock,

Administrative Officer.

[FR Doc. 84–20458 Filed 7–30–84; 3:58 pm]

BILLING CODE 4410–01–M

6

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, August 9, 1984.

PLACE: Hearing Room A, Interstate Commerce Commission Building, 12th & Constitution Ave., NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Ex Parte No. MC–172, Withdrawal of Antitrust Immunity For Collective Ratemaking On Small Shipments.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275–7252.

James H. Bayne,

Secretary.

[FR Doc. 84–20385 Filed 7–30–84; 10:49 am]

BILLING CODE 7035–01–M

7

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting

TIME AND DATE: The meeting will commence at 9:30 a.m. and continue until all official business is completed. Wednesday, August 8, 1984.

PLACE: Legal Services Corporation, Eighth Floor, 733 15th Street, NW., Washington, D.C. 20005.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes
   —June 28, 1984
3. Report from the President
4. Needs Study Update
5. Report from the Office of Program Development
6. Report from the Office of Field Services
   —Training Grants
   —Technical Assistance Grants
   —Standards

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Opsut, Executive Office, (202) 272–4040.

Date Issued: July 30, 1984.

Thomas J. Opsut,

Acting Secretary of the Corporation.

[FR Doc. 84–20462 Filed 7–30–84; 3:38 pm]

BILLING CODE 6820–35–M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–84–27]

TIME AND DATE: 9 a.m., Tuesday, August 7, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW. Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report and Recommendations:* Collision of the U.S. Passenger Vessel M/V *Yankee* and the Liberian Freighter M/V *Harbel Tapper* in Rhode Island Sound, July 2, 1983.
2. *Aircraft Accident Report:* Central Airlines Flight 27, Hughes Charter Air, Gates Learjet Model 25 (N51CA) Newark International Airport, Newark, N.J., March 30, 1983, and Letters of Recommendation.
3. *Railroad/Highway Accident Report*—Collision of Amtrak Train No. 88 with Tractor Lowboy Semitrailer Combination Truck, Rowland, North Carolina, August 25, 1983.
4. *Request to Reopen Accident Investigation and Response Letter to Congresswoman Collins:* PSA/Gibbs Flite Service, Boeing 727/Cessna 172, San Diego, California, September 25, 1978.
5. *Recommendation* Regarding Loss of Electrical Power in Twin Engine Airplanes Due to Alternator Failures.
6. *Letter* to the FAA regarding Wood Deterioration and Decay in Mooney Airplane Models M–20 and H–20A.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

July 27, 1984.

[FR Doc. 84–20336 Filed 7–27–84; 5:03 pm]

BILLING CODE 7533–01–M

9

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 30, 1984 (Revised); Week of August 6, 1984; and Week of August 13, 1984.

PLACE: Commissioners' Conference Room, 1717 H St., NW, Washington, DC.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED:

Week of July 30

Monday, July 30

10:00 a.m.
Status of Pending Investigations on Diablo Canyon (CLOSED—Ex. 5 & 7) (As Announced)

2:00 p.m.
Discussion of Earthquakes and Emergency Planning for Diablo Canyon and Discussion of Stay Motion (CLOSED—Ex. 10) (New Item)

Tuesday, July 31

9:30 a.m.
Discussion of Investigation and Possible Enforcement Action (CLOSED—Ex. 5 & 7) (New Item)

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Grand Gulf (PUBLIC MEETING) (As Announced)

2:00 p.m.
Industry Views on "Important to Safety" and "Safety Related" (PUBLIC MEETING) (As Announced)

Wednesday, August 1

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (CLOSED—Ex. 2 & 6) (Tentative) (As Announced)

Thursday, August 2

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Diablo Canyon (PUBLIC MEETING) (Moved from July 30)

2:00 p.m.
Executive Branch Briefing (CLOSED—Ex. 1) (New Item)

Friday, August 3

10:00 a.m.
Continuation of 7/23 Discussion of Indian Point Adjudicatory Proceeding (PUBLIC MEETING) (New Item)

Week of August 6

No Commission meetings scheduled.
Affirmation meeting (Public Meeting)—Thursday, August 9, 3:30 p.m. if needed. (As Announced)

Week of August 13

Thursday, August 16

10:00 a.m.
Discussion/Possible Vote on Final Rulemaking on Financial Qualifications (Public Meeting) (Tentative) (As Announced)

2:00 p.m.
Briefing on Steam Generator Generic Requirements (Public Meeting) (As Announced)

3:30 p.m.
Affirmation meeting (Public Meeting) (if needed) (As announced)

Week of August 20

No Commission meetings scheduled.
Affirmation meeting (Public Meeting)—Wednesday, August 22, 2:00 p.m., if needed. (New Item)

VERIFY THE STATUS OF MEETINGS CALL: (Recording) (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado, (202) 634–1410.

Dated: July 26, 1984.

John C. Hoyle,

Office of the Secretary.

[FR Doc. 84–20335 Filed 7–27–84; 4:42 pm]

BILLING CODE 7590–01–M

10

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published)

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, June 19, 1984.

CHANGE IN THE MEETING: Additional Meeting.

An additional closed meeting will be held on Wednesday, July 25, 1984, at 2:30 p.m., to consider the following item.

Regulatory matter bearing enforcement implications.

Chairman Shad and Commissioners Treadway, Cox and Marinaccio determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marianne Keler at (202) 272–2014.

George A. Fitzsimmons,

Secretary.

July 27, 1984.

[FR Doc. 84–20457 Filed 7–30–84; 3:58 pm]

BILLING CODE 4410–01–M

federal register

Wednesday
August 1, 1984

Part II

Department of Defense

Defense Logistics Agency

Privacy Act of 1974; Republication of System Notices

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Republication of System Notices

AGENCY: Defense Logistics Agency, DOD.

ACTION: Republication of system notices.

SUMMARY: The Defense Logistics Agency is completely republishing its inventory of notices for systems of records subject to the Privacy Act of 1974. The notices are set forth below.

DATES: These systems notices will be effective August 31, 1984.

ADDRESS: Send comments to: Mr. Preston B. Speed, Chief, Administrative Management Branch, Headquarters, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Tele: (202) 274–6234.

FOR FURTHER INFORMATION CONTACT: Mr. Speed, at the address and telephone number listed above.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1984, as amended, (5 U.S.C. 552a) have all been previously published in the **Federal Register** The notices published below have been rewritten to add a "Purpose(s)" caption and to delete the information as to the purposes of the systems and their internal uses within the Department of Defense from the "Routine Use(s)" caption. This information is now set forth under the "Purpose(s)" caption.

No new routine uses or changes of purpose are reflected by these rewrites.

Also some organizational and address changes have been made to reflect the current Defense Logistics Agency organizational structure. None of these changes requires an altered system report (5 U.S.C. 552a(o)).

These notices reflect all of the systems of records subject to the Privacy Act of 1974, being maintained by the Defense Logistics Agency as of July 1, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 26, 1984.

DEFENSE LOGISTICS AGENCY

How Systems of Records Are Arranged

Defense Logistics Agency records are arranged by major functional categories. Systems of records notices are grouped similarly. A system identifier looks like this: S322.01 DLA–K. The letter S denotes the Defense Logistics Agency. The first digit (3) represents the primary functional area, the next two digits (22) represent the numerical listing within that category. The suffix letters (DLA–K) are internal management accounting devices.

How to Use the Index Guide

As an aid in locating a particular system of records, first determine the numerical series by functional area as listed below. This list identifies each series in the order in which it appears in this issuance. Use the series number to locate the systems of records in which you are interested.

Subject series	System identification series
100	Administration.
200	Planning and Management.
300	Personnel.
400	Finance.
600	Transportation.
800	Procurement.

Requesting Records

All records are retrieved by name or by some other personal identifier. It is therefore especially important for expeditious service when requesting a record that particular attention be provided to the Notification and Access Procedures for the particular record system involved. Furnish the required personal identifiers and any other pertinent personal information as may be required, in order to assist in locating and retrieving the record you want.

Blanket Routine Uses

Certain blanket "routine uses" have been established, that are applicable to the records in every system of records maintained within the Department of Defense (DOD), unless it is specifically stated otherwise within a particular system notice. These blanket routine uses are set forth below. In the interest of simplicity, economy, and to avoid redundancy, these routine uses are not repeated in each system notice.

A. Routine Use—Law Enforcement

If a system of records maintained by a DOD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

B. Routine Use—Disclosure When Requesting Information

A record from a system of records maintained by a DOD Component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

C. Routine Use—Disclosure of Requested Information

A record from a system of records maintained by a DOD Component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

D. Routine Use—Congressional Inquiries

Disclosure from a system of records maintained by a DOD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

E. Routine Use—Private Relief Legislation

Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, will be disclosed to the OMB in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

F. Routine Use—Disclosures Required by International Agreements

A record from a system of records maintained by a DOD Component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities to comply with requirements imposed by, or to claim rights conferred

in, international agreements and arrangements including those regulating the stationing and status in foreign countries of DOD military and civilian personnel.

G. Routine Use—Disclosure to State and Local Taxing Authorities

Any information normally contained in Internal Revenue Service (IRS) Form W–2 which is maintained in a record from a system of records maintained by a DOD Component may be disclosed to state and local taxing authorities with which the Secretary of the Treasury has entered into agreements under 5 U.S.C. 5516, 5517, and 5520 and only to those state and local taxing authorities for which an employee or military member is or was subject to tax regardless whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin No. 76–07.

H. Routine Use—Disclosure to the Office of Personnel Management

A record from a system of records subject to the Privacy Act and maintained by a DOD Component may be disclosed to the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

I. Routine Use—Disclosure to the Department of Justice for Litigation

A record from a system of records maintained by a DOD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

S111.11DLA-K

SYSTEM NAME:

Rotation of Employees From Foreign Areas and the Canal Zone.

SYSTEM LOCATION:

Staffing and Employee Relations Division, Staff Director, Personnel Headquarters Defense Logistics Agency (HQ DLA), Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees of DLA who have requested extention of tour of duty in Canal Zone and foreign areas beyond five years, or for whom management has made such a request.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include requests for extension of duty in Canal Zone and foreign areas, request letters, statements as to need or justification and, when management initiates request, statement of employee's consent. Statement of approval or disapproval by the Staff Director, Personnel, HQ DLA, or his Deputy and comments by the staff elements as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1586 and Department of Defense (DOD) Instruction 1404.8.

PURPOSE(S):

Information is used in determining whether extension of employee's overseas tour of duty beyond five years should be approved or disapproved. Information is used by HQ DLA Office of Personnel and management officials concerned with the extension.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

File alphabetically by employee's last name.

SAFEGUARDS:

Records are maintained in locked filing cabinets in areas accessible only to Agency personnel.

RETENTION AND DISPOSAL:

Records are retained in active file until end of calendar year and held one to three years in inactive file and subsequently destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Personnel, Headquarters Defense Logistics Agency, Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the Systems Manager. Individual must provide full name.

RECORD ACCESS PROCEDURES:

Official mailing address is set forth above. Written requests for information should be addressed to the Systems Manager and contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or employing office identification card, and give some verbal information which can be verified with his records.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, civilian personnel office and government officials or other parties having an interest in the employee's assignment.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S111.11DLA-KP

SYSTEM NAME:

Bye-Bye Retirement System.

SYSTEM LOCATION:

System may exist at Decentralized DLA Primary Level Field Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

System may contain information about civilian personnel of DLA Primary Level Field Activities (PLFAs) who are eligible for retirement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Printout statement indicating estimated retirement annuity for employee. Information annuity for employee. Information includes name of employee, service computation date, birth date, current salary and date began and accumulated sick leave hours.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8331–8348, "Civil Service Retirement".

PURPOSE(S):

Information is maintained for the purpose of supplying employees who are eligible for retirement with decision information. Information is used by the Civilian Personnel Office to counsel employees who are eligible to retire. Information is used by computer programmers for programming and reprogramming purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Blanket Routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual paper printouts are stored in corresponding employee's Official Personnel Folder. Information may also be maintained in a Mark III remote timesharing computer system.

RETRIEVABILITY:

Filed by alphabetical order within individual PLFA files. PLFA listings filed in single computer file and retrieved by file name.

SAFEGUARDS:

Records are maintained in locked file area and in locked computer terminal room. System access codes are restricted to Agency officials with a need for the information.

RETENTION AND DISPOSAL:

Records are destroyed after retirement of employee.

SYSTEM MANAGER(S) AND ADDRESS(ES):

PLFA Civilian Personnel Officers. Official mailing addresses are in the DLA Directory of Mailing Addresses.

MOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the Systems Manager. Employee need only supply full name and organization location.

RECORD ACCESS PROCEDURES:

Employee may visit the Personnel Office and review his Official Personnel Folder. Employee should be able to certify to his identity.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information furnished by the Office of Civilian personnel and extracted from the employee's Official Personnel Folder. Accumulated sick leave hours are obtained from the payroll office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Official Records for Host Enrollee Programs.

SYSTEM LOCATION:

Geographically and organizationally decentralized to the Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs) which act as hosts for individuals sponsored by local, state and federal agencies who seek work experience and training with DLA activities with or without DLA participation relative to compensation and reimbursement.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants and selectees of Host Enrollee programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Various forms and records pertaining to the selection and other administrative information originating during the tenure and after the separation of the selected individuals in the Host Enrollee Program of the DLA PLFA. Normally such records as time and attendance, training records, periodic evaluations, data on enrollee designee for emergency contact, work site location of enrollee, official address, telephone number, and similar records are maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Rehabilitation Act of 1973 (29 U.S.C. 701, *et seq.*) Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93–567); Comprehensive Employment and Training Act (CETA) (29 U.S.C. 801, *et seq.*)

PURPOSE(S):

This information is collected and maintained to assist personnel and management officials to administer a uniform program of work and training experience to enrollees and to make a proper evaluation of the enrollees and the respective Host Enrollee Program. The use of the records is restricted to official personnel for administrative purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file storage.

RETRIEVABILITY:

Filed alphabetically by employee name under particular type of Host Enrollee Program.

SAFEGUARDS:

Maintained in locked filing cabinets. Direct access to the files is limited to civilian personnel office employees and to supervisors and others who are identified as having a specific and legitimate need.

RETENTION AND DISPOSAL:

Records are maintained for the duration of the enrollee's program assignment. They are held for two years after separation from the program and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Civilian Personnel Officers (CPOs) of DLA Primary Level Field Activities.

NOTIFICATION PROCEDURES:

Request for information from former enrollee about himself or herself should be forwarded to the Systems Manager at the PLFA where the enrollment occurred. Individuals currently enrolled in the Host Enrollee Program may obtain information direct from the Systems Manager.

RECORD ACCESS PROCEDURES:

Enrollees should contact the designated Systems Manager. Written requests should include requester's full name, job title and name of program enrolled or formerly enrolled and job title held. For personal visits employees should be able to provide some acceptable identification.

CONTESTING RECORD PROCEDURES:

The Systems Manager will provide the DLA rules for contesting contents of records.

RECORD SOURCE CATEGORIES:

Information contained in records of enrollees is obtained from employee, program sponsor, educational institutions, supervisors and others who contribute to the work and training experience of the enrollee while registered in the respective Host Enrollee Program of the activity.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S111.11DLA-XA

SYSTEM NAME:

Personnel Roster/Locator Files.

SYSTEM LOCATION:

Headquarters Defense Logistics Agency (DLA) and all field activities where maintained.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and military personnel for the DLA activity where records are maintained.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system may contain paper and computerized locator records including such items as: Name, organizational

assignment, office and home telephone number, home address, grade/rank, military branch of service and date of rank, position title, job series, and spouse's name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To notify DLA personnel of the arrival of visitors, to plan social functions, recall personnel to duty station when required, for use in emergency notification, and to perform relevant functions/requirements/actions consistent with managerial functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, card files and some on magnetic tape or disk.

RETRIEVABILITY:

Alphabetically by name, by organization, or grade/rank.

SAFEGUARDS:

Records are accessible only to authorized DLA personnel.

RETENTION AND DISPOSAL:

Records are destroyed upon termination/departure of DLA personnel or upon preparation of new locator cards/rosters.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Heads of HQ DLA principal staff elements and Heads of DLA field activities which maintain locator/roster files.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name, name of DLA activity and specific office at which employed.

RECORD ACCESS PROCEDURES:

Official mailing addresses of System Manager are in the DLA Directory. Request should contain full name, current address and telephone number of the individual. For personal visits, the individual should be able to provide some acceptable identification; that is driver's license, or DLA identification card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual, upon assignment to DLA, and when changes occur.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S120.05DLA-K

SYSTEM NAME:

Schedule and Record of Overtime Assignment and Request.

SYSTEM LOCATION:

First line supervisor or other supervisory levels in each organizational unit where formalized overtime records are maintained. The records are not maintained by all supervisors but only by those who need such a record or where such records are required by negotiated labor agreements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any civilian employee in those organizational segments where formalized overtime records are kept may be covered.

CATEGORIES OF RECORDS IN THE SYSTEM:

A roster of civilian personnel in the organizational segment, schedules of proposed overtime, dates overtime was offered, record of whether employee accepted the overtime, hours and dates worked, amount of work produced during the overtime hours, and other information related directly to overtime usage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5542, Overtime Rates; Computation.

PURPOSE(S):

Information is used by the supervisor to assign overtime on an equitable or rotational basis and to plan and schedule overtime as needed. It may also be used to determine the most productive overtime workers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be shown to employee representatives, such as union representatives to demonstrate nature and equity of the system.

See also blanket routine uses as set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders or index cards.

RETRIEVABILITY:

Filed or listed by employee name.

SAFEGUARDS:

Records are maintained in file cabinets under the supervisor's control.

RETENTION AND DISPOSAL:

Records are destroyed after one year from the last date of overtime usage.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Office of Civilian Personnel of the appropriate Defense Logistics Agency (DLA) Primary Level Field Activity.

NOTIFICATION PROCEDURES:

Individuals may determine whether or not there is an overtime record pertaining to them from their immediate supervisor or the System Manager.

RECORD ACCESS PROCEDURES:

Written request for access to information should be directed to the System Manager. Official mailing addresses are in the DLA Directory. For personal visits to the System Manager, individual should be able to provide some acceptable identification such as official identification card or driver's license. However, inquiries will normally be made to the immediate supervisor by personal visit.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisors and others involved in the management of overtime in the activity.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S120.05DLA-KP

SYSTEM NAME:

Supervisors' Records and Reports of Employee Attendance and Leave.

SYSTEM LOCATION:

This system is decentralized by organization and geography to the supervisory level at all Defense Logistics Agency (DLA) field activities and Headquarters DLA. All records described are not necessarily maintained by all supervisors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA employees and certain former DLA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Schedules of planned leave, records of sick and annual leave and other types of leave taken, records of tardiness, absences without leave, leaves without pay, administrative leave, and other absences of types of leave. In some cases the record may also contain notation of time actually present, time on temporary duty (TDY) and time on special assignments or temporary assignments. Records may be kept by the hour, day, week, pay period, quarter, or year. While records maintained in accordance with this notice are all "hard copy" or manual in nature, some of the records may be produced by automated data processing as printouts from automated payroll and leave accounting systems described under other notices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 61 and 63; Leave.

PURPOSE(S):

Data is used by supervisors and by civilian personnel office staff to monitor sick leave use and detect patterns of attendance and sick leave usage which may be indications of problems in the use of leave or which should be discussed with the employee. To schedule annual leave in an organized, fair and planned way. To identify employees who may be congratulated for accumulation of sick leave or limited use of sick leave. To prepare statistical reports on leave use and attendance matters and for statistical evaluation and anlysis of leave usage patterns. To post daily leave usage onto time and attendance reports or records and to answer employee questions on leave charges.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses as set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders or binders or file index cards.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Any part of the records containing any personal or potentially sensitive data are maintained in locked filing cabinets or supervisors' locked desks.

RETENTION AND DISPOSAL:

Records are kept for one year and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Civilian Personnel Officer at each DLA Primary Level Field Activity.

NOTIFICATION PROCEDURES:

Employees who wish to determine what leave records are being maintained at supervisory or personnel office level should address their inquiries to their immediate supervisors or to the primary level field activity office of civilian personnel.

RECORD ACCESS PROCEDURES:

Personal requests for record content should be made to the immediate supervisor or to System Manager. Written request for assistance in obtaining access should be directed to the System Manager, and should contain the full name and organizational location of the employee. Official mailing addresses of the System Manager are in the DLA Directory. For personal visits to System Manager, the indiviudal should provide some acceptable identification, such as activity identification card or driver's license.

CONTESTING RECORD PROCEDURES:

The agency rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Payroll office and payroll records, including automated payroll systems, employee's supervisors, timekeepers, time and attendance clerks, leave slips (Standard Form 71 or equivalent).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S153.10DLA-T

SYSTEM NAME:

Personnel Security Files.

SYSTEM LOCATION:

Primary System—Investigatory records containing unfavorable information requiring clearance action by the Defense Logistics Agency (DLA) Central Clearance Group (CCG) and records pertaining to persons involved in highly sensitive projects: Command Security Office, Command Security Officer, HQ DLA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees and military personnel who have been the subject of a National Agency Check (NAC); a Background Investigation (BI); or Special Background Investigation (SBI) pertaining to their qualifications for access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigations conducted by the Office of Personnel Management (OPM), the Federal Bureau of Investigation (FBI), the Defense Investigative Service (DIS), the investigative units of the Army, Navy and Air Force, and other Federal investigative organizations. Also, evidence of security clearances and access to classified information granted to individuals and certifications of security briefings and debriefings signed by individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended.

PURPOSE(S):

The investigatory reports are used by appropriate Security Officers and Commanders or other designated officials as a basis for determining a person's eligibility for access to information classified in the interests of national defense.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Reports are filed alphabetically by name, date and place of birth. No indices are used to retrieve individual records from the system.

SAFEGUARDS:

As a minimum, records are stored in locked containers wherever authorized DLA personnel are not present to control access to them. Any of these files containing classified documents are maintained in security containers approved by HQ DLA for stronge of classified information.

RETENTION AND DISPOSAL:

Reports are retained as long as the person is employed or assigned to DLA. After the person leaves DLA, the reports are placed in an inactive file, retained for two years, and then destroyed or returned to the agency which conducted the investigation.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Command Security Officer, HQ DLA; Security Officers of Primary Level Field Activities.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Managers.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Managers are in the DLA Directory. Written requests for information should contain the full name, date and place of birth, current address and telephone number of the requester. For personal visits, the requester must be able to provide some acceptable identification (i.e., driver's license, parent's name, identitfication card, date and place of birth, dates and place(s) of employment with DLA, if applicable). Written requests must be accompanied by a notarized statement attesting to the requester's identity and containing the following: "I understand that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to 5,000 dollars under the provisions of the Privacy Act of 1974."

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Reports of investigations conducted by the OPM, FBI, DIS, investigative units of the Army, Navy, and Air Force, as well as other Federal investigative organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C. 552a(k)(2) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the System Manager.

S153.20DLA-T

SYSTEM NAME:

Personnel Security Clearance Status—CAPSTONE.

SYSTEM LOCATION:

Primary System—Central computer programs and files maintained at the Defense Logistics Agency (DLA) Administrative Support Center (DASC) provide a central index for information regarding the personnel security clearance status of civilian employees and military personnel within DLA. Ready reference listings are furnished by DASC to DLA Primary Level Field Activities (PLFAs) and to Principal Staff Elements (PSEs) at HQ DLA concerning personnel under their jurisdiction.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DLA civilian and military personnel who have been granted a security clearance for access to information classified in the interests of National Security.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer listings both alphabetically in the form of a Master Capstone File (MASCAP) and by organization in the form of a Records of Access Authorization and Eligibility (RACEL). These listings provide the unit Security Officer with complete personnel security data on the entire work force and the Head of each PLFA ad HQ PSE a roster reflecting each individual who has been authorized access, as well as the level of access, to classified information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended.

PURPOSE(S):

These records are used by Security Officers at all levels as well as other appropriate supervisors to determine whether or not DLA civilian employees or military personnel have been cleared for or granted access to classified information; and, if so, the level of such clearance or access.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information as to the clearance status of individual employees may be provided to the appropriate clearance, access officials of other agencies when necessary in the course of official business.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Paper records in file orders; magnetic tape; computer print-out.

RETRIEVABILITY:

Identities of persons whose names are contained in the system are listed in the MASCAP and RACEL alphabetically. All data in the system about each person is set forth next to the person's name.

SAFEGUARDS:

As a minimum, records are stored in locked containers whenever authorized DLA personnel are not present to control access to them. Any of these files containing classified documents are maintained in security containers approved by HQ DLA for storage of classified information.

RETENTION AND DISPOSAL:

New MASCAP and RACEL listings are published monthly and old listings are destroyed as soon as the new lists are verified but in no case beyond 90 days.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Security Office, DASC and Security Officers of all PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Managers.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Managers are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, such as driver's license, employing office identification card, and give some verbal information that would be verified with his file.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations may be obtained from the Systems Managers.

RECORD SOURCE CATEGORIES:

Certificates of clearance and record of personnel security investigation which are completed during a review of reports of investigation conducted by the Office of Personnel Management, the Federal Bureau of Investigation, the Defense Investigative Service, and investigative

units of the Army, Navy and Air Force, as well as other Federal investigative organizations. Also, personnel security files maintained on individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Criminal Incidents/Investigations File.

SYSTEM LOCATION:

Primary System—Case files on all incidents of known or suspected criminal activity or other serious incidents which may arouse local or national news media or Congressional interest. Command Security Office, Headquarters, Defense Logistics Agency (HQ DLA).

Decentralized segments—above files plus incidents of minor nature: HQ DLA Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel of DLA, contractor employees, and other persons who committed or are suspected of having committed a felony or misdemeanor on DLA controlled activities or facilities; or outside of those areas in cases where DLA is or may be a party of interest.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of Investigation, messages, statements of witness, subjects and victims, photographs, laboratory reports and other related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21, of the Internal Security Act of 1950 (5 U.S.C. 781. *et seq.*), DOD Instruction 5200.22, "Reporting of Security and Criminal Violations", and Memorandum Deputy Secretary of Defense, May 7, 1974, which assigned to the Director of DLA the responsibility for identifying all DLA activities requiring criminal investigative support and crime prevention surveys, provide control coordination of such investigation and surveys, and to ensure optimum investigative support and mutual exchange of relevant information between participating agencies.

PURPOSE(S):

Information is maintained for the purpose of monitoring the progress of investigations, identification of crime conductive condition, crime and loss prevention, and preparation of statistical data required by higher authority. Information is used by: DLA Security personnel—to monitor progress of cases, develop nonpersonal statistical data on crime and loss incidence; crime and loss prevention and to enable planning of required criminal investigative support for the future. DLA counsel—review of cases and determination of proper legal action. DLA supervisors and managers—to determine actions required to correct the causes of losses, and to take appropriate action against DLA employees in cases of their involvement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information may be referred to local, state or federal law enforcement agencies when the information indicates a violation of local, state, or federal laws. See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, photographs, laboratory reports in file folders, bound logs and card index files.

RETRIEVABILITY:

Filed chronologically by DLA case number and cross indexed in a log and card index file. Indexed either by name of the individual or firm involved, when such are known, if not by DLA activity or facility having primary interest in the case.

SAFEGUARDS:

Records are maintained in areas accessbile only to DLA security personnel.

RETENTION AND DISPOSAL:

Records are destroyed 5 years after submittal or receipt of a final report in each case or when no longer needed, whicheve is later.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Command Security Office, DLA; Heads of PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain in the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification care, and give some verbal information that could be verified with the file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents as well as appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Reports of investigation by DLA Security Officers, Federal, state and local law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C. 552a(k)(2) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the System Manager.

S161.20DLA-T

SYSTEM NAME:

Visitors and Vehicle Temporary Passes and Permits File.

SYSTEM LOCATION:

Heads of Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons requiring temporary access to DLA activities and facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, surrendered passes, permits, and related papers relating to temporary visitor and vehicle passes or permits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21 of the Internal Security Act of 1950 (50 U.S.C. 781, *et seq.*) and Department of Defense Directives 5200.8 and 5105.22 which assign to the Director, DLA the responsibility of protection of property and facilities under his control.

PURPOSE(S):

Information is maintained to provide adequate controls on movement of vehicles and persons on DLA activities and facilities. Information is used by DLA Security personnel: To ensure that only authorized perons and vehicles enter DLA activities and facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, applications, surrendered passes and permits. Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel.

RETENTION AND DISPOSAL:

Destroy 6 months after expiration date.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Security Officers at PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide his full name and identity of DLA activity to which access was granted; and if individual is or was a DLA employee, identity of employing DLA activity.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain the full name, current address and telephone number of the individual. For personal visits, the individual should be able to provide some acceptable identification card, and give some verbal information that could be verified from his file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals applying for passes or permits and Security Office personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S161.25DLA-T

SYSTEM NAME:

Individual Access Files.

SYSTEM LOCATION:

Heads of Primary Level Field Activities (PLFAs) of the Defense Logistics Agency (DLA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA civilian and military personnel, contractor employees, and of the individuals granted or denied access to DLA activities and installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the request for authorization, issue, receipt, surrender, withdrawal and accountability pertaining to identification, badges, cards and passes, to include application forms, photographs, letters of debarment, and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21 of the Internal Security Act 1950 (50 U.S.C. 781 *et seq.*) and Department of Defense (DOD) Directives 5200.8 and 5105.22 which assign to the Director, DLA the responsibility for protection of property and facilities under his control.

PURPOSE(S):

Information is maintained and used by DLA and DOD security personnel to adequately control access to, and movement on DLA activities and facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATGEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is maintained and used by General Services Administration Protective Service personnel to adequately control access to, and movement on DLA activities and facilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and index cards.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized DLA personnel.

RETENTION AND DISPOSAL:

Records are destroyed 1 year after termination or transfer of person granted access, except that individual badges, photographs or passes will be destroyed upon revocation, cancellation, or expiration. Records relating to persons barred from a facility will be destroyed 5 years after the person is notified he is barred from an activity or installation.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Security Officers of PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the appropriate System Manager.

RECORD ACCESS PROCEDURES:

Official mailing addresses of System Managers are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified from his file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents of records and appealing initial determinations regarding access may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals applying for identification badge, card, or pass, security personnel, and Commanders who bar persons from access to their activities or installations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S161.30DLA-T

SYSTEM NAME:

Motor Vehicle Registration Files.

SYSTEM LOCATION:

Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA civilian and military personnel, contractor employees, vendors, and other persons requiring use of private vehicles on DLA activities of facilites.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms and papers relating to registration of private vehicles and commercial vehicles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Highway Safety Act of 1966 (23 U.S.C. 401, *et seq.*) and National Highway Safety Program Standards, which direct such programs as vehicle traffic supervision, periodic motor vehicle inspections, pedestrian safety, policy traffic services and records, accident investigation and reporting.

PURPOSE(S):

Information is maintained to provide adequate controls on movement of

privately owned motor vehicles on DLA activities and facilities, consistent with safety and applicable traffic regulations.

Information is used by DLA Security personnel to ensure that only authorized vehicles enter DLA facilities and activities and that those vehicles carry required liability insurance. Also, to plan for future parking requirements and to be able to indentify vehicles and their owners by decal number in the event of emergency or traffic problems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, application cards, and on some activities logs containing accountability for decals. Computer magnetic tapes or discs, computer paper printouts.

RETRIEVABILITY:

Filed alphabetically by last name and cross-referenced by decal number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA security personnel.

Manual records are either secured in locked storage and file cabinets or under the constant observation of security personnel during both duty and non-duty hours. The computer terminal used for access to, input and changes to the automated system is maintained in an area under constant observation of security personnel. Access to the automated system through the computer terminal is protected by password identification. Magnetic tapes and discs are kept in the computer room, which is itself a security container with locked doors and access-limited persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing and are logged in and out only to cleared personnel with an official need. Reports with individual data are closely controlled. Computer personnel who process these reports are appropriately cleared and maintain continuous observation of reports during all processing phases. Individuals requesting information must identify themselves and their relationship to the individual on whom the record information is being requested. Individuals other than the individual of record must specify what information is requested and the purpose for which it would be used if disclosed.

RETENTION AND DISPOSAL:

Destroy upon normal expiration or 3 years after revocation of registration.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Heads of PLFAs which are responsible for the installation on which they are located.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and name of DLA activity at which registration occurred; or if individual is or was a DLA employee, name of employing activity is also required.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified with his "case" folder.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial determinations may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Information provided by the applicant and DLA security personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Vehicle Accident Investigation Files.

SYSTEM LOCATION:

Heads of Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person involved in a vehicle traffic accident on property controlled by DLA or operating a DLA vehicle.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports, sketches, photographs, medical reports and related papers concerning traffic accident investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Highway Safety Act of 1966 (23 U.S.C. 401, *et seq.*) and National Highway Safety Program Standards, which direct such programs as vehicle traffic supervision, periodic motor vehicle inspections, pedestrian safety, policy traffic service and records, accident investigation and reporting.

PURPOSE(S):

Information is maintained for purposes of accident cause identification and to formulate accident prevention programs for improvement in traffic patterns and for preparation of statistical reports required by higher authority.

Information is used by:

Security Officers and DLA Police: To determine actions required to correct the cause of the accident.

Safety Officers: In cases involving personal injury, to provide verification in processing workmen's compensation cases.

Claims Officers: To determine validity of claims against U.S. Government, when such are filed by a person involved in an accident.

DoD Medical personnel: To make medical determinations about individuals involved in accidents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used by: Federal Law Enforcement Agencies: In cases involving fatalities or serious hit and run accidents, to investigate, identify suspects, and to determine if criminality or criminal negligence was involved.

Non-DOD Medical personnel: To make medical determinations about individuals involved in accidents.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of person involved, when known, or by victim's name or by police report number in unsolved hit and run cases.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel.

RETENTION AND DISPOSAL:

Destroy after 2 years, except that documentation pertinent to claims will

be maintained for 10 years after final settlement.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Heads of PLFAs who are responsible for the DLA installation or vehicle involved.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and name of DLA activity at which accident occurred or if individual is or was a DLA employee, the name of the employing DLA activity is also required.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, such as, driver's license or employing agency identification card. Some verbal information may be required to verify the file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA, Department of Defense, General Services Administration Police, Federal law enforcement agencies, medical facilities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S161.50DLA-T

SYSTEM NAME:

Traffic Violations File.

SYSTEM LOCATION:

Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who commit a traffic violation on DLA controlled property.

CATEGORIES OR RECORDS IN THE SYSTEM:

Traffic tickets, documents relating to withdrawal of driving privileges, and reports of corrective or disciplinary action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Highway Safety Act of 1966 (23 U.S.C. 401, *et seq.*) and National Highway Safety Program Standards, which direct such programs as vehicle traffic supervision, periodic motor vehicle inspections, pedestrian safety, police traffic services and records, accident investigation and reporting.

PURPOSE(S):

Information is maintained to identify traffic offenders, to enforce applicable traffic regulations and to promote safety. Information is used by:

DLA Security Officers and DoD to identify traffic violations, to enforce applicable traffic regulations, to promote safety and to initiate corrective or disciplinary action against the offenders.

DLA supervisors and managers—to take corrective or disciplinary action against offenders under their supervision.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, ticket books, card index files. Computer magnetic tapes or discs, computer paper printouts.

RETRIEVABILITY:

Filed alphabetically by last name of the offender and cross-indexed by ticket number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA Security personnel. Manual records are either secured locked storage and/or file cabinets or under the constant observation of security personnel during both duty and non-duty hours. The computer terminal utilized for access to, input and changes to the automated system is maintained in an area under constant observation of security personnel. Access to the automated system through the computer terminal is protected by password identification. Magnetic tapes and discs are kept in the computer room, which itself is a security container with locked doors and access limited persons appropriately used in processing and are logged in and out only to cleared personnel with an official need. Reports with personal data are closely controlled. Computer personnel who process these reports are appropriately cleared and maintain continuous observation of reports during all processing phases. Individuals requesting information must identify themselves and their relationship to the individual on whom the record information is being requested. Individuals other than the individual of record must specify what information is requested and the purposes for which it would be used, if disclosed.

RETENTION AND DISPOSAL:

Destroy after 2 years.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Heads of PLFAs which have responsibility for managing traffic on the installation.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and name of DLA activity at which violation occurred; or if individual is or was a DLA employee, name of employing activity is also required.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified from his file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA, DoD Security Police and traffic offenders.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S161.60DLA-T

SYSTEM NAME:

Seizure and Disposition of Property Records.

SYSTEM LOCATION:

Defense Logistics Agency (DLA), Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person identified on DLA controlled property, as being in possession of contraband or physical evidence connected with criminal offense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents pertaining to acquisition, storage and disposition of contraband and physical evidence to include receipts, chain of custody documents, release, and disposition or destruction certificates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21 of the Internal Security Act 1950 (50 U.S.C. 781, *et seq.*) and Department of Defense (DoD) Directives 5200.8 and 5105.22 which assign to the Director, DLA the responsibility for protection of property and facilities under his control.

PURPOSE(S):

Information is maintained and used by DLA security personnel to provide accountability for confiscated contraband and acquired physical evidence. To maintain chain of custody on evidence for presentation in court in cases requiring criminal prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information will be provided to local, State, and federal law enforcement agencies and courts of competent jurisdiction when criminal action is taken.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and property logs.

RETRIEVABILITY:

Filed by property log number, and last name, if a person has been identified in the particular case; by incident number if property was found on the premises or recovered from a crime scene.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel.

RETENTION AND DISPOSAL:

Destroy 3 years after final action on or disposition of the property and responsibility therefor has been appropriately terminated.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Head of PLFAs who are responsible for investigating suspected criminal acts.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to System Manager.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified from his file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals involved, security personnel, local, State and Federal Law Enforcement Agencies and DoD investigative agencies providing support to DLA.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S161.70DLA-T

SYSTEM NAME:

Firearms Registration Records.

SYSTEM LOCATION:

Defense Logistics Agency (DLA), Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel having privately owned firearms and occupying quarters on DLA controlled activities or facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Firearms registration forms, and other documents relating to registration of privately owned firearms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21 of the Internal Security Act 1950 (50 U.S.C. 781, *et seq.)* and Department of Defense (DOD) Directives 5200.8 and 5105.22 which assign to the Director, DLA the responsibility for protection of property and facilities under his control.

PURPOSE(S):

Information is used by DLA Security personnel to ensure proper maintenance and safekeeping of privately owned weapons by personnel residing on DLA controlled premises. Records are used to identify the owner of a particular weapon by DOD security personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to identify the owner of a particular weapon by local, state and Federal law enforcement agencies.

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

File alphabetically by last name of the owner of the firearm.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel.

RETENTION AND DISPOSAL:

Destroy 6 months after cancellation of registration or departure of the registrant from the jurisdiction of the registering activity.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Heads of PLFAs who are responsible for base housing on a DLA installation.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and identity of DLA installation upon which he resided.

RECORD ACCESS PROCEDURES:

Official mailing addresses of System Manager are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that can be verified from his file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Persons registering firearms, and DLA security personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S162.60DLA-T

SYSTEM NAME:

Police Force Records.

SYSTEM LOCATION:

Defense Logistics Agency (DLA) Primary Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA Security Police personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Document relating to operation and use of security police, their security clearances, weapons qualification, training, uniforms, weapons, shift assignments and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21 of the Internal Security Act 1950 (50 U.S.C. 781, *et seq.)* and Department of Defense (DOD) Directives 5200.8 and 5105.22 which assign to the Director, DLA the responsibility for protection of property and facilities under his control.

PURPOSE(S):

Information is maintained and used by DLA Security Officers and Police Supervisors to maintain control of property, weapons and ammunition; to ensure proper training; to develop schedules and procedures to improve efficiency. Records are used to determine if an individual is qualified in the use of firearms and if he has a security clearance which would authorize him to handle classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, weapon cards, and property receipts.

RETRIEVABILITY:

Filed in alphabetical order by name.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA security supervisory personnel.

RENTION AND DISPOSAL:

Destroy after 5 years of when superseded or obsolete, as applicable.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Heads PLFAs who are responsible for the operation of base or facility security forces.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager.

RECORD ACCESS PROCEDURESS:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, such as, driver's license, employing office identification card, and give verbal information that could be verified from his file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA Security Officers and Security Police personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S214.20DLA-L

SYSTEM NAME:

Emergency Assignment and Training Records.

SYSTEM LOCATION:

Headquarters, Defense Logistics Agency (DLA) and all field activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present DLA civilian and military personnel who have volunteered for, or been designated to perform, somed duty or assignment in time of emergency that is not regularly included in their present duties. Former personnel who have recently left the activity may also be included to the extent that the records have not yet been purged of their names.

CATEGORIES OF RECORDS IN THE SYSTEM:

Agreements to perform emergency duties, training records are pertaining to emergency duties, authority to operate Government vehicles, and similar information related to the emergency assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

50 U.S.C. 402—405, National Security Act at 1947; 50 U.S.C., app. 2251, Federal Civil Defense Act of 1950; E.O. 10952, Assigning Civil Defense Responsibilities to the Secretary of Defense; and E.O. 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies.

PURPOSE(S):

The records are used by the management and supervisory personnel of DLA in the day-to-day planning and management of emergency actions. These include emergency recall rosters, the war and emergency support plan, staffing of fallout shelters, physical security of the post or other premises, and similar purposes. The use might involve emergencies of both a civil or military nature, in time of peace or war, and would also include natural as well as man-made disasters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and card files.

RETRIEVABILITY:

Accessed by organization, type of emergency assignment, or individual name.

SAFEGUARDS:

Maintained in areas accessible only to authorized DLA management and staff, and afforded appropriate protection at all times.

RETENTION AND DISPOSAL:

Continuously updated and purged to reflect current information.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Chief, Command and Control Division, HQ, DLA; and Commanders, DLA Primary Level Field Activities and subordinate field activities.

NOTIFICATION PROCEDURES:

Written or personal requests should be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals should contact the appropriate System Manager. Official mailing addresses are in the DLA Directory. Written requests should include the requester's full name, job title and name of organization where employed or formerly employed. For personal visits, employee should be able to provide some acceptable

identification such as driver's license or employee identification badge.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information contained in the system is obained from the employee, official personnel records, and present and former supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S233.10DLA-K

SYSTEM NAME:

Work Assignment, Performance and Productivity Records and Reporting Systems.

SYSTEM LOCATION:

Immediate supervisor and other appropriate supervisory and mangement levels within the individual Primary Level Field Activities of the Defense Logistics Agency (DLA) or of the DLA Headquarters. Some or all of the records listed may or may not be kept by any particular supervisor or at any particular organizational level.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of organizational segments for which such records are kept or former such employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Descriptions of individual assignments, target dates, progress against targets, hours expended against particular assignments or categories of assignments, cost accounting codes and similar workload data, including such matters as number of contracts or projects assigned and description of assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Ch. 33; 5 U.S.C. 301 and 302.

PURPOSE(S):

The information is used by the employee's immediate supervisor and other appropriate management officials to record and make reports on invidual work assignments and the amount of effort devoted to each assignment. The information is used to schedule work, make progress reports and supervise and control workload. It is used to assure that workload is equitably assigned and to determine which employees have performed which categories of assignment in order to determine the experience of assignment of new work or for resolving problems, such as those related to a particular item or a particular contract. The data may also be used to evaluate individual and group performance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders or binders and file index cards.

RETRIEVABILITY:

Retrievable by employee's name, although records may be filed chronologically or by type of assignment.

SAFEGUARDS:

Records are maintained in file cabinets and are accessible to authorized agency personnel only.

RETENTION AND DISPOSAL:

Records are retained so long as the employee is engaged in the same work in the same organizational segment, but, in no case, longer than 5 years. Records are destroyed when employees leave the job or the organizational unit, or 5 years have elapsed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

The Commander, DLA Primary Level Field Activities.

NOTIFICATION PROCEDURES:

Individual inquiries as to what work assignment records are maintained regarding a given person should be directed to the immediate or second line supervisor.

RECORD ACCESS PROCEDURES:

Personal or written requests for the content of the record should be addressed to the first or second line supervisor. Written requests for information may, however, be addressed to the System Manager and should identify the employee by name and organizational segment. Official mailing addresses of the System Managers are in the DLA Directory. For personal visits to the System Manager, the individual should provide some acceptable identification, such as activity identification card or driver's license.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisors or team leaders.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S243.30DLA-K

SYSTEM NAME:

Complaints.

SYSTEM LOCATION:

Staff Director, Personnel, Headquarters Defense Logistics Agency (HQ DLA), and Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA civilian and military personnel, and former personnel, contractor employees, union spokesmen, and other individuals and organizations who have presented complaints to the President, Members of Congress, Secretary of Defense, Director of Defense Logistics Agency (DLA), or other officials which have been referred to Staff Director, Personnel, headquarters DLA, for response, actions or information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files concern complaints to the President; Members of Congress; Secretary of Defense; Director, DLA; and Staff Director, Personnel, HQ DLA. These include letters, telegrams, reports, statements of witnesses, input from staff elements and field activities, and related and supporting papers regarding specific complaint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552; E.O. 11491; Department of Defense (DoD) Directive 5400.4, and DoD Directive 5102.22.

PURPOSE(S):

Information is collected in order to base reply to complaint and to determine need for, and course of action to be taken regarding complaint.

Information is used by: Director, DLA and DLA staff, field commanders, managers and supervisors in replying to additional inquiries and for bringing to attention of higher level management, when appropriate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is furnished to individuals or organizations who wrote to DLA on behalf of the complaint and who use it to respond to the complaint, or for other related purposes.

See also the blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and a log book.

RETRIEVABILITY:

Complaints to the President and Members of Congress are filed alphabetically by last name of individual or employee or by DLA activity name. Employee group complaints are filed under the activity where originated. Union or civil rights organization complaints, complaints to the Secretary of Defense and to the Director of DLA are filed under complaints in one folder, or by activity name.

Individuals can be located within activity files.

SAFEGUARDS:

Records are maintained in locked filing cabinets in areas accessible only to Agency personnel.

RETENTION AND DISPOSAL:

Records are retained in active file until end of calendar year and held one to three additional years in inactive file and subsequently retired to Federal Records Center. After a total of ten years records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, personnel, HQ DLA, and Civilian Personnel Officers, PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name, the name of any DLA activity involved, and general nature of complaint individual believes to be filed in the system.

RECORD ACCESS PROCEDURES:

Written requests for information should be addressed to the System Manager. See the DLA Directory for mailing addresses. The request should contain the full name, current address and telephone number of the individual, and the general nature of complaint individual believes to be filed in this system. For personal visits, individual should also be able to provide some acceptable identification, that is, driver's license, work identification card, and give some verbal information that could be verified with his case folder.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, civilian personnel office of employee's activity, U.S. Office of Personnel Management, staff elements, other Federal agencies, DLA activities or other parties that may have information pertinent to specific complaint, or an interest in the complaint.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S252.50DLA-G

SYSTEM NAME:

Claims & Litigation, other than Contractual.

SYSTEM LOCATION:

Primary System—Case on claims or potential claims against the Government, law suits and potential law suits arising from the non-contractual operation of the Defense Logistics Agency (DLA); Office of General Counsel, Headquarters, DLA. Decentralized segments—corresponding files at Offices of Counsel, DLA Field Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, groups of employees, members of the general public and public interest organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters from individuals or attorneys, Agency or other investigative reports, witness statements, complaints, pleadings and other court documents, litigation reports, working papers and drafts; documentary and physical evidence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These files are created and maintained pursuant to the direction of the Attorney General of the United States under the authority contained in 28 U.S.C., Ch. 31.

PURPOSE(S):

Information is used in settlement of claims or lawsuits. Information is used in the defense and presecution of law suits involving DLA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used by individual claimants or litigants or their representatives, the Department of Justice, and the investigative, audit, inspection and legal staffs or other Executive agencies as appropriate and the investigative, audit, inspection and legal staffs of the General Accounting Office in the conduct of litigation and administrative settlement of claims.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in combination of paper and automated files.

RETRIEVABILITY:

Filed alphabetically by the name of the litigant and/or by year.

SAFEGUARDS:

Records, as well as computer terminals, are maintained in areas accessible only to DLA personnel. In addition, access to the computerized information in the system is limited to authorized users and is password protected.

RETENTION AND DISPOSAL:

Files are destroyed ten years after final disposition of claim.

SYSTEM MANAGER(S) AND ADDRESS(ES):

General Counsel, Defense Logistics Agency, HQ DLA, Cameron Station, Alexandria, VA 22314

NOTIFICATION PROCEDURES:

Written requests for information shall be directed to the System Manager. Request must contain name of litigant, year of incident, and should contain court case number in order to ensure proper retrieval in those situations where a single litigant has more than one case with the Agency.

RECORD ACCESS PROCEDURES:

Official mailing addresses are in the DLA Directory. Written requests for information should contain the full name, current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Agency investigation and legal discovery under the Federal Rule of Civil Procedure.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S253.10DLA-G

SYSTEM NAME:

Invention Disclosure.

SYSTEM LOCATION:

Files of the Patent Counsel, Office of the General Counsel, Defense Logistics Agency (DLA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and military personnel assigned to DLA who have submitted invention disclosures to the DLA General Counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files documenting invention disclosures and investigation as to patentability thereof.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10096, Jan. 23, 1950 as amended by E.O. 10930, Mar. 24, 1961, and Defense Logistics Procurement Regulation, 9000.50.

PURPOSE(S):

Used by DLA Patent Counsel for determinations regarding acquisition of patents and right of inventors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be referred to other government agencies or to non-government agencies or to non-government personnel (including contractors or prospective contractors) having an identified interest in a particular invention and the Government's rights therein.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Paper records in file folders and card index files.

RETRIEVABILITY:

Filed by names of inventors.

SAFEGUARDS:

Accessible only to DLA personnel

RETENTION AND DISPOSAL:

Destroy 26 years after file is closed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURES:

Direct information requests to System Manager.

RECORD ACCESS PROCEDURES:

Official mailing address of the System Manager is Office of General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Written requests should include full name, current address and telephne numbers of requester. For personal visits, each individual shall provide acceptable identification, e.g., driver's license or identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing intial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA Patent Counsel's investigation of published and unpublished records and files both within and without the Government, consultation with Government and non-Government personnel, information from other Government agencies and information submitted by Government officials or other persons having a direct interest in the subject matter of the file.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S253.30DLA-G 1

SYSTEM NAME:

Royalties.

SYSTEM LOCATION:

Files of the Patent Counsel, Office of the General Counsel, Defense Logistics Agency (DLA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms to whom patent royalties are paid by Defense Logistics Agency contractors.

CATEGOREIS OF RECORDS IN THE SYSTEM:

Reports from DPA procurement centers of patent royalties submitted pursuant to Defense Acquisition Regulation (DAR) forwarded to Defense Logistics Agency Headquarters, Office of General Counsel for approval, and included in pricing of respective contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S. Code 2304(g), DLA PR 9–110 and DAR 9–100.

PURPOSE(S):

Reviewed by DLA Patent Counsel for approval of royalties on continuing basis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be referred to other government agencies or to non-government personnel (including contractors or prospective contractors) having an identified interest in the allowance of royalties on DLA contracts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card index files.

RETRIEVABILITY:

Filed by patent number. Names of inventors and patent owners are retrievable from these numbers.

SAFEGUARDS:

Accessible only to DLA personnel with an official need to know.

RETENTON AND DISPOSAL:

Destroy after 26 years.

SYSTEM MANAGER(S) AND ADDRESS(ES):

General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURES:

Direct information requests to System Manager.

RECORD ACCESS PROCEDURES:

Official mailing address of the System Manager is Office of General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Written requests should include full name, current address and telephone numbers of requester. For personal visits, each individual shall provide acceptable identification, e.g., driver's license or identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA Patent Counsel's investigation of published and unpublished records and files both within and without the government, consultation with government and non-Government personnel, information from other Government agencies and information

submitted by Government officials or other persons having a direct interest in the subject matter of the file.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S253.30DLA-G 2

SYSTEM NAME:

Patent Licenses and Assignments.

SYSTEM LOCATION:

Files of the Patent Counsel, Office of the General Counsel, Defense Logistics Agency (DLA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms which have granted patent licenses or assignments to DLA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files including patent license and assignment agreements and accounting records indicating basis for Government payment of royalties during life of agreements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2386, Defense Acquisition Regulation (DAR) 9, Part 4; and Defense Logistics Procurement Regulation (DLPR) 9–401.50.

PURPOSE(S):

Used by DLA patent Counsel for acquisition and administration of patent license and assignment agreements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be referred to other Government agencies or to non-Government personnel (including contractors or prospective contractors) having an identified interest in the potential or actual infringement of particular patents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card index files.

RETRIEVABILITY:

Filed by name of individual or firm granting rights.

SAFEGUARDS:

Accessible only to DLA personnel with official need to know.

RETENTION AND DISPOSAL:

Destroyed 26 years after file is closed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURE:

Direct information requests to System Manager.

RECORD ACCESS PROCEDURE:

Official mailing address of the System Manager is Office of General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Written requests should include full name, current address and telephone numbers of requester. For personal visits, each individual shall provide acceptable identification, e.g., driver's license or identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA Patent Counsel's investigation of published and unpublished records and files both within and without the government, consultation with government and non-governemnt personnel, information from other government agencies and information submitted by Government officials or other persons having a direct interest in the subject matter of the file.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S253.40DLA-G

SYSTEM NAME:

Patent Infringement.

SYSTEM LOCATION:

Files of Patent Counsel, Office of the General Counsel, Defense Logistics Agency (DLA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms involved in potential or actual claims or litigation against the United States for infrigement of patents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files relating to patentability and enforceability of asserted patents and procurement of accused items.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2386; 10 U.S.C. 2356; 28 U.S.C. 520; 28 U.S.C. 1498; 35 U.S.C. 181–188; and 35 U.S.C. 286, Defense Acquisition Regulation (DAR) 9, Part 4; Defense Logistics Procurement Regulation (DLPR) 9–401.50.

PURPOSE(S):

Used by DLA Patent Counsel for actions, determinations or recommendations regarding disposition of claims or litigation by DLA or Military Departments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be referred to the Department of Justice and other Government agencies or to non-Government personnel (including contractors or prospective contractors) having an identified interest in the potential or actual infringement of particular patents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card index files.

RETRIEVABILITY:

Filed by name of claimant or litigant.

SAFEGUARDS:

Accessible only to DLA personnel.

RETENTION AND DISPOSAL:

Destroyed 26 years after file is closed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURES:

Direct information requests to System Manager.

RECORD ACCESS PROCEDURES:

Official mailing address of the System Manager is Office of General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Written requests should include full name, current address and telephone numbers of requester. For personal visits, each individual shall provide acceptable identification, e.g., driver's license or identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA Patent Counsel's investigation of published and unpublished records and files both within and without the

Government, consultation with Government and non-Government personnel, information from other Government agencies and information submitted by Government officials or other persons having a direct interest in the subject matter of the file.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S255.01DLA-G

SYSTEM NAME:

Fraud & Irregularities.

SYSTEM LOCATION:

Primary System—Case files on actual or suspected fraud, criminal conduct and antitrust violations which arise from procurement, the disposal of surplus property, the administration of contracts or any other operation of the Defense Logistics Agency (DLA) are filed at the Office of the General Counsel, DLA. Decentralized segments—corresponding files at Office of Counsel for field activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual or group of individuals or other entity, involved in or suspected of being involved in any fraud, criminal conduct or antitrust violation relating to DLA procurement, property disposal to DLA procurement, property disposal or contract administration, or other DLA activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports, complaints, pleadings and other court documents, litigation reports, working papers, documentary and physical evidence, contractor suspensions and debarments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These files are created and maintained pursuant to the direction of the Attorney General of the United States under the authority contained in 28 U.S.C. Chs. 31 and 32.

PURPOSE(S):

Information is used in the investigation and prosecution of criminal or civil actions involving fraud, criminal conduct and antitrust violations and is used in determinations to suspend or debar individuals or other entities from DLA procurements and sales.

Information may be referred to and use by DoD investigators and Government attorneys in DLA and other activities of the Department of Defense.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be referred to and used by Federal investigators, Department of Justice, and other contracting, audit, inspection, investigative, and legal activities of other agencies to include State and local law enforcement agencies, as appropriate.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in combination of paper and automated files.

RETRIEVABILITY:

Filed alphabetically by the name of the subject individual or other entity.

SAFEGUARDS:

Records, as well as computer terminals, are maintained in areas accessibile only to DLA personnel. In additional, access to and retrieval from computerized files is limited to authorized users and is password protected.

RETENTION AND DISPOSAL:

Records are destroyed ten years after all aspects of the case are closed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURES:

Written requests for information shall be directed to the System Manager. Requests must contain name of subject and sufficient identification of the incident in order to ensure correct retrieval.

RECORD ACCESS PROCEDURE:

Official mailing addresses are in the DLA Directory. Written requests for information should contain the full name, current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Federal, state and local investigative agencies; other federal agencies; DLA employees; and individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S257.10DLA-G

SYSTEM NAME:

Standards of Conduct.

SYSTEM LOCATION:

Decentralized system—Office of the General Counsel, Headquarters, Defense Logistics Agency, (HQ DLA), maintains Executive Personnel Financial Disclosure Report, Standard Forms 278; and Statements of Employment and Financial Interests, DD Form 1555 on Headquarters, DLA, DASC, DTIC employees and Commanders, Deputy Commanders, and Counsels of Primary Level Field Activities (PLFAs).

Other DD Forms 1555 required by the PLFAs are maintained at the DLA Field Activity Office of Counsel.

Standard of Conduct Certifications are maintained in each HQ DLA and PLFA Priimary Staff Elements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Includes DLA employees, whose official duties require the exercise of judgment in making government decisions or taking actions which may have a significant economic impact on any non-Federal entity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes Standard Forms 278 and DD Forms 1555 or allegation of a violation of standards of conduct, investigatory reports by the Government, recommendations and determinations as to whether a violation of the standards of conduct occurred and what sanction may be appropriate and/or was imposed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222; "The Ethics in Government Act of 1978", Pub. L. 95-521; and DLA Regulation 5500.1.

PURPOSE(S)

Information is used by the DLA General Counsel's Office in its efforts to preclude DLA employees from making determinations in areas where such decisions might be or appear to be in conflict with personal interests. Information is used by the General Counsel's Office to determine if DLA personnel are observing the highest standards of business ethics. Records may be forwarded to Director, DLA or DLA Field Activity Commanders for appropriate action.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be referred to the Department of Justice or the appropriate criminal investigative agency.

See also the blanket routine use set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Records are retrievable by surname of employee or by date.

SAFEGUARDS:

Records are retained in areas accessible only to authorized personnel in Office of General Counsel or others as determined by General Counsel, DLA. DD Forms 1555 are retained in locked file cabinets.

RETENTION AND DISPOSAL:

Incidents of violation of standards of conduct, indefinitely; DDs 1555, until employee leaves employment of DLA.

SYSTEM MANAGER(S) AND ADDRESS(ES):

General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURE:

Requests for information should be addressed to the System Manager. Individual requesting information should state name, subject matter of information requested, and date of form or (alleged) violation.

RECORD ACCESS PROCEDURE:

The System Manager can provide assistance.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals, other empolyees, and non-employees having knowledge of the alleged violation of the standards of conduct.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S259.05DLA-G

SYSTEM NAME:

Legal Assistance.

SYSTEM LOCATION:

Decentralized System located at both Office of General Counsel, Headquarters, Defense Logistics Agency (HQ DLA), and at the Offices of the Counsels, Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authorized military personnel and dependents who have requested legal assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Wills, Powers of Attorney and other legal documents prepared in response to requests for legal advice. Also background information supplied by requester to prepare the documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 302.

PURPOSE(S):

Documents are used to provide copies for individuals requesting the assistance, their representative or where othewise appropriate, members of their immediate families. Documents may also be used as models or examples for perparing future documents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses listed above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and/or card files.

RETRIEVABILITY:

Attorney operating folders are kept in a file cabinet or other storage devices accessible only to authorized personnel of the Office of Counsel or as determined by Counsel.

SAFEGUARDS:

Attorney operating folders are kept in a file cabinet or other storage devices accessible only to authorized personnel of the Office to Counsel or as determined by Counsel.

RETENTION AND DISPOSAL:

Destroy 2 years after completion of case, except documents withdrawn for use as precedents may be held by topics until no longer required for references purposes.

SYSTEM MANAGER(S) AND ADDRESS(ES):

General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314 and Counsels, PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and, if appropriate, date assistance was requested.

RECORD ACCESS PROCEDURES:

The DLA rules for access to records by the individual concerned may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual requesting assistance.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S270.10DLA-K

SYSTEM NAME:

Request for Assistance and Information.

SYSTEM LOCATION:

Staff Director, Personnel; Headquarters Defense Logistics Agency (HQ DLA), and Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel, former employees, contractor employees, attorneys, and other individuals or organizations who have requested assistance and information from the President, Members of Congress, Secretary of Defense, Director of Defense Logistics Agency (DLA) or other officials, which have been referred to the Staff Director, Personnel, Headquarters DLA, for response, action or information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files include requests for assistance and information sent to the President, Member of Congress, Secretary of Defense, Director of Defense Logistics Agency or Staff Director, Personnel, Headquarters DLA, by the individual and the DLA responses, action documents, and other related documents and material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5. U.S.C. 552, Public Information, Department of Defense Directive 5400.4, "Provisions of Information to Congress"; and Department of Defense Directive 5105.22; "Defense Logistics Agency".

PURPOSE(S):

Information is maintained for replying to subsequent inquiries and as background material regarding the responses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is provided members of Congress, the Office of Personnel Management, and other federal agencies, attorneys, civil rights organizations, and parties involved in veterans' matters and training as well as other matters affecting DLA employees.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and log book.

RETRIEVABILITY:

Alphabetically by last name of individual involved with or requesting information and assistance, or by DLA field activity name, when requests are from groups.

SAFEGUARDS:

Records are maintained in locked filing cabinets in areas accessible only to Agency personnel.

RETENTION AND DISPOSAL:

Records are retained in active file until end of calendar year, held one to three additional years in an inactive file, and subsequently are destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Personnel, HQ DLA; Civilian Personnel Officers, PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name, the name of any DLA activity that is involved, and the general nature of the request for assistance or information individual believes may be filed in this system.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The office or activity to which the inquiry or request was directed, the employee's supervisors, civilian personnel office of employee's activity, U.S. Office of Personnel Management, Federal agencies involved and other persons or organizations that could assist in final solution of the matter.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S270.30DLA-B

SYSTEM NAME:

Biography File.

SYSTEM LOCATION:

Office of Legislative and Public Affairs, Headquarters, Defense Logistics Agency (DLA) and Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Selected civilian and military personnel currently and formerly assigned to DLA and other persons affiliated with DLA and the Department of Defense (DOD).

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information provided by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 302.

PURPOSE(S):

Information is maintained as background material for news and feature articles covering activities, assignments, retirements, and reassignments of key DLA commanders and executives, in the preparation of speeches by the Director/Deputy Director at change of Command, retirement and awards ceremonies; and for annual visits or other activities by persons affiliated with DLA or DOD.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used by DLA public affairs personnel to prepare news and feature articles with the knowledge and consent of the individual concerned.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and/or card index file.

RETRIEVABILITY:

Filed alphabetically by last name of individual.

SAFEGUARDS:

Records are maintained in an area accessible only to DLA Public Affairs Office personnel.

RETENTION AND DISPOSAL:

Files are retained in current files area and destroyed 2 years after retirement, transfer or death of DLA personnel or termination of affiliation with DLA or DOD by other persons.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Legislative and Public Affairs, DLA and Public Affairs Officers, PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and employing activity.

RECORD ACCESS PROCEDURES:

Official mailing addresses of System manager are in the DLA Directory. Written request for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, such as driver's license, or employing office identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals concerned on a strictly volunteer basis.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.10DLA-LZ

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93920.

Back-up files maintained in a bank vault in Herman Hall, Naval Postgraduate School, Monterey, Ca.

Decentralized segments—Portions of this file may be maintained by the military personnel and finance centers of the services; selected civilian contractors with research contracts in manpower area and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and enlisted personnel who served on active duty from July 1,

1968 and later or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later. DOD civilian employees separated since January 1, 1971. All veterans who have used GI bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special training program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute, all individuals who participated in the Armed Forces Vocational Aptitude Testing Program at the high school level since September 1969. Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services, National Longitudinal Survey. Individuals responding to recruiting advertisements since January 1978; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Veterans Administration; surviving spouses of active or retired deceased military personnel; 100 disabled veterans and their survivors.

Individuals receiving disability compensation from the Veterans' Administration; civilian employees of the Federal Government; dependents of active duty military retirees, selective service registrants. Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized records consisting of Name, Service Number, Selective Service Number, Social Security Account Number, demographic information such as home town, age, sex, race, and educational level; civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training; programs, military hospitalization records.

Champus claim records, military compensation data, selective service registration data, Veterans' Administration disability payment records, security clearance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136; Pub. L. 97-252.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, perform longitudinal statistical analysis, identify current and former DOD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs and to collect debts owed to the United States Government and state and local governments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information is used by the following:

Veterans Administration, Management Sciences Staff, Reports and Statistics Services, Office of the Comptroller—To select sample for surveys asking veterans about the use of veterans benefits and satisfaction with VA services, and to validate eligibility for VA benefits.

Office of Research and Statistics, Social Security Administration—For statistical analyses of impact of military service and use of GI bill benefits on long term earning.

DOD Civilian Contractors—To perform research on manpower problems for statistical analyses.

Office of Personnel Management (OPM): To carry out its management functions. Records disclosed concern pay, benefits, retirement deductions, and other information necessary to these management functions.

Information as to name, rank, Social Security Account Number, duty station, birth date, retirement date, and retirement annuity may be disclosed to the Department of Health and Human Services (DHHS) or the Department of Education for the following purposes:

Department of Education (DOE)—for the purpose of identifying individuals who appear to be in default on their guaranteed student loans so as to permit DOE to take action, where appropriate, to accelerate recoveries of defaulted loans.

The Bureau of Supplemental Security Income, Social Security Administration, DHHS—to verify and adjust as necessary payments made to active and retired military members under the Supplemental Security Income Program.

The Office of the Inspector General, DHHS—to identify and investigate DOD employees (military and civilian) who may be improperly receiving funds under the Aid for Families of Dependent Children Program.

Office of Child Support Enforcement, DHHS—Pursuant to Pub. L. 93-647, to assist state child support enforcement offices in locating absent parents in order to establish and/or enforce child support obligations.

Director of the Selective Service System—to use in wartime or emergency mobilization and for mobilization planning.

Veterans Administion—to analyze the costs to the individual of military service connected disabilities.

Federal government and Quasi-federal agencies—to identify military retirees employed in a civilian capacity whose civilian pay must be offset as a result of increases in military retiree pay pursuant to the Budget Reconciliation Act of 1982, Pub. L. 97-252.

State, local and territorial governments—to help eliminate fraud and abuse in their benefit programs and to collect debts and overpayments owed to those programs. Information released includes name, social security account number and mailing address of individuals.

Other Federal agencies—to help eliminate fraud and abuse in the programs administered by agencies within the Federal government and to collect debts and overpayment owed to the Federal government. Information release may include aggregate data and/or individual records in the record system may be transferred to any other federal agencies having a legitimate need for such information and applying appropriate safeguards to protect data so provided.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Magnetic computer tape.

RETRIEVABILITY:

Retrievable by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

Primary location—At W. R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be phycially accessed by computer center personnel and can be mounted for

processing only if the appropriate security code is provided.

Back-up location—tapes are stored in a bank type vault and buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Deputy Director, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, CA 93940.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests for individuals should be addressed to the System Manager.

Written requests for information should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The Military Services, the Veterans Administration, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, federal and quasi-federal agencies, Selective Service System, the U.S. Postal Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.15DLA-KR

SYSTEM NAME:

Information Military Personnel Records.

SYSTEM LOCATION:

Staff Director, Personnel, HQ Defense Logistics Agency (DLA), (DLA-K), and Heads of Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and reserve personnel assigned to DLA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Evaluation reports, general and special orders, leave slips, qualification records, applications for ID Cards, security clearance, and miscellaneous correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 501, *et seq.*, Personnel; 5 U.S.C. § 302(b)(1).

PURPOSE(S):

The purpose of the record is to accumulate documents relating to the military member while assigned to DLA. The records are used by the Staff Director and his staff and Heads of PLFAs and their staff for notification of assignments, career briefs, assignment orders, promotion data, personal data, awards and decorations, training data, recommendations for disciplinary action, review procedures instituted to control incidents, and advising the Director of incidents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Retained in file folders.

RETRIEVABILITY:

Filed alphabetically by last name.

SAFEGUARDS:

Locked in file cabinets within areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Retained during individual's assignment to DLA and destroyed within 1 year of departure.

SYSTEM MANAGER(S) AND ADDRESSES:

Staff Director, Personnel, HQ DLA and Heads of PLFAs.

NOTIFICATION PROCEDURES:

The requester should send a by-name request to Staff Director, Personnel, HQ DLA and System Manager if assigned to a PLFA. The requester may visit the office of either or both system Managers with appropriate identification.

RECORD ACCESS PROCEDURES:

Contact the System Manager. Official mailing addresses are in the DLA Directory.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Special orders, service records, in/out processing documents, and computer listings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.20DLA-Z

SYSTEM NAME:

Reenlistment Eligible File (RECRUIT).

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93940.

Back-up file: Offices of the Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former enlisted personnel of the military services who separated from active duty since 1971

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records consisting of Social Security Number, name, service, date of birth and date of separation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136

PURPOSE(S)

The purpose of the system is to assist recruiters in reenlisting prior service personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action or regulatory order. Any record may be disclosed to Coast Guard recruiters in the performance of their assigned duties.

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on disc with a full backup on magetic tape.

RETRIEVABILITY:

Retrievable by Social Security Number.

SAFEGUARDS:

Disc file is protected by password access and hard-wire system.

Monterey, California location has tape storage area in locked room accessible only to authorized personnel; building is locked after hours.

Recruiters making telephone inquires must have valid recruiter identification and call back number.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Deputy Cjhief, Defense Manpower Data Center, 550 Camino El Estero, Monterey, California 93940.

NOTIFICATION PROCEDURES:

Information may be obtained from: Manager, RECRUIT System, Defense Manpower Data Center, 550 Camino El Estero, Monterey, Califorina 93940. Telephone: Area Code 408/375–4131.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Manager, RECRUIT System, Defense Manpower Data Center, 550 Camino El Estero, Monterey, Califorina 93940.

Written requests for information should contain the full name, current address, telephone number, Social Security Number, and date of separation of the individual.

For personal visits, the indiviudal should be able to provide some acceptable identification such as driver's license.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The data contained in the system are obtained from the Army, Navy, Air Force, Marine Corps, and Coast Guard.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.35DLA–LZ

SYSTEM NAME:

Survey Data Base.

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center: Naval Postgraduate School, Monterey, CA 93940.

Decentralized locations for back-up files: Department of Defense, Defense Manpower Data Center, 1600 Wilson Blvd., 4th Floor, Arlington, VA 22209 and 550 Camino El Estero, Monterey, CA 93940.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were selected at random for survey administration and who completed survey forms. Survey data is collected on a periodic basis. Individuals include both civilians and military members. Civilian respondents include young men and women of military age, applicants to the military services, DoD civilian employees, retired DoD civilian employees and veterans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Survey responses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136.

PURPOSE(S):

The purpose of the system is to sample attitudes toward enlistment in and determine reasons for enlistment decisions.

The information is used to support manpower research sponsored by the Department of Defense and the Military Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information may be used to support manpower research sponsored by other Federal agencies.

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic computer tape.

RETRIEVABILITY:

Records can be retrieved by individual identifiers, including Social Security Number, by institutional affiliation such as Service membership, and by individual characteristics such as educational level.

SAFEGUARDS:

Tapes stored at the primary location are kept in a locked storage cage in a controlled access area; tapes stored at the back-up locations are kept in locked storage areas in buildings which are locked after hours.

RETENTION AND DISPOSAL:

Computer records are permanent; survey questionnaires are destroyed after computer records have been created.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Defense Manpower Data Center, 1600 Wilson Blvd., 4th Floor, Arlington, VA 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from Chief, Defense Manpower Data Center, 1600 Wilson Blvd., 4th floor, Arlington, VA 22209.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, Defense Manpower Data Center, 1600 Wilson Blvd. 4th Floor, Arlington, VA 22209.

Written requests for information should contain the full name, Social Security Number, and current address and telephone number of the individual. In addition, the appropriate date and location where the survey was completed should be provided.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military of other identification cards.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The survey information is provided by the individual; additional data obtained from Federal records are linked to individual cases in some data sets.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.45DLA–KR

SYSTEM NAME:

Active Duty Military Personnel Data Bank System.

SYSTEM LOCATION:

Staff Director, Personnel, HQ Defense Logistics Agency (DLA) (DLA–K),and Heads of Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military personnel currently assigned to the Defense Logistics Agency (DLA) and history records of those individuals previously assigned.

CATEGORIES OF RECORDS IN THE SYSTEM:

The computer records and print-outs containing information as to organization, position, identification grade, service specialty, position title, special requirements, education

requirements, geographic location, name, service, temporary date of rank, social security number, duty specialty, permanent grade, permanent date of rank, date assigned, date of rotation, remarks, primary specialty, job related experience civilian education, military school, date of birth, retirement date, separation or expiration of enlistment, and aero rating.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 502, *et seq.*, Personnel; 5 U.S.C. 302(b) (1).

PURPOSE(S):

The purpose of the file is to insure effective personnel/career management for DLA and DLA military personnel. The printouts are used by the Staff Director and Deputy Staff Director, personnel, the Chief, Personnel Division and his staff specialists. An extract printout of the specific PLFA is used by the Commander and his personal staff. The data bank is used to prepare the alphabetical roster, rotation roster, colonel roster, listings of specialty codes, service listings, functional listing, and advanced degree listing. These documents are used to accurately report data on the individual and position to which he is assigned, requisition replacements, select assigned personnel for higher level positions, provide assigned strength figures for OSD, and assist individual military personnel in their career management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disc and computer paper printouts.

RETRIEVABILITY:

Alphabetically by last name.

SAFEGUARDS:

Maintained in areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Printouts are held for one year and then destroyed. The computer tapes are held for five years and then degaussed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Personnel, HQ DLA.

NOTIFICATION PROCEDURES:

The name of the requester should be sent to the System Manager. The requester may visit the Office of the System Manager, and present the appropriate military identification card.

RECORD ACCESS PROCEDURES:

Contact the System Manager. Official mailing addresses are in the DLA Directory.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Military personnel records and Positions Distribution Reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.50DLA-LZ

SYSTEM NAME:

Defense Enrollment/Eligibility Reporting System (DEERS).

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Decentralized segments—Two eligibility centers are maintained and operated by contractors in Monterey, CA and Arlington, VA; and the Processing Center for Automation of DOD Forms 1172 in Santa Barbara, CA.

Back-up files maintained at the Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Armed Forces personnel and their dependents, retired Armed Forces personnel and their dependents; surviving dependents of decease active duty or retired personnel; active duty and retired Coast Guard personnel; active duty and retired Public Health Service (PHS) personnel (Commissioned Corps) and their dependents; and active duty and retired National Oceanic and Atmospheric Administration (NOAA) employees (Commissioned Corps) and their dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer files containing beneficiary's name, Service or Social Security Number of sponsor, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary to sponsor, residence address of beneficiary (includes zip code), date of birth of beneficiary, sex of beneficiary, branch of service of sponsor, dates of beneficiary, number of dependents of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of beneficiary, rank/pay grade of sponsor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136; 1969 Pub. L. 91-121, Section 404(A)(2), "Establishment of the Assistant Secretary of Defense for Health Affairs; the Presidentially Commissioned Department of Defense, Department of Health, Education and Welfare, Office of Management and Budget Report of the Health Care Study (completed December 1975)": DOD Directive 1341.1, Defense Enrollment/Eligibility Reporting System, October 14, 1981; DOD Instruction 1341.2, DEERS Procedures.

PURPOSE(S):

The purpose of the system is to provide a data base for determining eligibility to receive health care benefits under the Uniformed Health Services Delivery System and CHAMPUS, to monitor the accuracy of payments and to identify and collect overpaid amounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of Health and Human Services; Veterans' Administration; Federal Preparedness Agency and Commerce Department for the conduct of health care studies and for the planning and allocation of medical resources. The data provided includes summary data on ages, sex, residence and other demographic parameters. To other Federal agencies to identify debtors and collect debts and overpayments in the DOD health care programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes and discs are housed in a controlled computer media library.

RETRIEVABILITY:

Records about individuals are retrieved by an algorithm determined by contractor which uses names, enrollment number, Social Security Number, date of birth, rank and duty location as possible inputs. Retrievals are made on a summary basis by geographic characteristics and locations and demographic characteristics. Information about individuals will not be distinguishable in such summary retrievals. Retrievals for the purposes of generating address list for direct mail distribution of health care information

may be made using selection criteria based on geographic and demographic keys.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations). Exists used solely for emergency situations is secured to prevent unauthorized instrusion.

Personal data stored at a separate location for backup purposes is protected at least comparably to the protection provided at the primary location.

Requirements for protection of information are binding on contractors or their representative and are subject to the following minimum standards:

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subject of the record or their authorized representative. Access to personal information is further restricted by the use of passwords which are changed periodically.

All those officials whose duties require access to, or processing and maintenance of, personal information are trained in the proper safeguarding and use of the information.

RETENTION AND DISPOSAL:

Computerized records on an individual are maintained as long as the individual is legally eligible to receive health care benefits from the Uniformed Health Sciences Delivery System. The records are maintained for two (2) years after termination of eligibility.

Records may be disposed of or destroyed only in accordance with DoD Component record management regulations which conform to the controlling disposition of such materials as set forth in 44 U.S.C. 3301–3314. Non-record material containing personal information and other material of similar temporary nature is destroyed as soon as its intended purpose has been served under procedures established by the Head of the DoD Component consistent with the following requirement. Such material shall be destroyed by tearing, burning, melting, chemical deposition, pulping, pulverizing, shredding, or mutilation sufficient to preclude recognition or reconstruction of the information.

SYSTEM MANAGER(S) ADDRESS(ES):

Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940.

NOTIFICATION PROCEDURES:

Information may be obtained from: Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940, (408) 646–2951.

Written requests for the information should contain full name of individual and sponsor, if applicable, and other attributes required by previously mentioned search algorithm.

For personal visits the individual should be able to provide a data element required to satisfy the previously mentioned algorithm.

Identification should be corroborated with a driver's license or other positive identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR Part 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Personnel and financial pay systems of the Military Departments, the Coast Guard, the Public Health Service, the National Oceanic and Atmospheric Administration and other Federal agencies having employees eligible for military medical care.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Defense Debt Collection Data Base.

SYSTEM LOCATION:

Primary Location: W. R. Church Computer Center, Naval Postgraduate School, Monterey, California 93940.

Back-up files maintained at the Defense Manpower Data Center, 550 Camino El Estero, Monterey, California 93940.

Decentralized segments—military and civilian financial and personnel centers of the services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and enlisted personnel, members of reserve components, retired military personnel and survivors and deceased military personnel, Federal civilian employees, and contractors who have been identified as being indebted to the United States Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records containing name, Social Security Number, debt principal amount, interest and penalty amount (if any), debt reason, debt status, demographic information such as grade or rank, sex, date of birth, location, and various dates identifying the status changes occuring in the debt collection process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136 and Pub. L. 97–365, "Debt Collection Act of 1982".

PURPOSE(S):

The purpose of the system of records is to provide the Department of Defense (DoD) with a central record of all debts and debtors either under current of past financial obligation to the United States Government to control and report on the debt collection process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Other Federal Agencies—Records of debtors obligated to DoD, but currently employed by another Federal agency are referred to the employing agency under the provisions of the Debt Collection Act of 1982 for collection of the debt. Records of debtors employed by DoD, but obligated to another Federal agency will be released to the other agency upon collection of the debt.

Internal Revenue Service—Record may be referred to obtain home address.

Office of Personnel Management—Records may be referred to obtain current employment location.

Credit Bureaus and Debt Collection Agencies—Records may be referred to private contract organizations to comply with the provisions of the Debt Collection Act of 1982 for non-payment of a outstanding debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape.

RETRIEVABILITY:

Records are retrieved by social security number and name from a computerized index.

SAFEGUARDS:

Primary location—W. R. Church Computer Center—tapes are stored in a

controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location—Monterey, California—tapes are stored in rooms protected with cypher locks, building is locked after hours, and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Records are retained indefinitely as a financial record.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Deputy Director, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, California 93940.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager. Written requests for information should contain the full name, Social Security Number, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

Contact System Manager for the DLA rules on contesting initial determinations. The record accuracy may also be contested through the administrative processes contained in Pub. L. 97–365, "Debt Collection Act of 1982".

RECORD SOURCE CATEGORIES:

The military services and any other Federal agency.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.70DLA–KR

SYSTEM NAME:

Reserve Affairs.

SYSTEM LOCATION:

Staff Director, Personnel, HQ Defense Logistics Agency (DLA) (DLA–K).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Ready Reserve, Army, Air Force, navy and marine personnel assigned to DLA Individual Mobilization Augmentee (IMA) positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records and print-outs containing such items as, name, grade, Social Security Number, service, career specialty, position title, date of birth, commission date, promotion date, release date, security clearance education, home address and civilian occupation of the individuals involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 501, *et seq.* Personnel; 5 U.S.C. 302(b)(1), and DoD Directive 5105.22 (IX).

PURPOSE(S):

The purpose of the system is to have information readily available in the day-to-day operation of the Reserve Mobilization program. It is used by the Staff Director, his Deputy and the Reserve personnel specialists. Data is used in preparation of personnel actions such as reassignments, classification actions, promotions, scheduling and verifying active duty and inactive duty training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, disc and computer paper printouts.

RETRIEVABILITY:

Alphabetically by last name.

SAFEGUARDS:

Maintained in area accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Printouts are held for one year and then destroyed. The computer tapes are held for 5 years and then degaussed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Personnel, HQ DLA.

NOTIFICATION PROCEDURES:

The name of the requester should be sent to the System Manager. The requester may visit the office of the System Manager and present the appropriate military identification card.

RECORD ACCESS PROCEDURES:

Contact the System Manager; offcial mailing addresses are in the DLA Directory.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Data processing output from the Military Services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S332.01DLA–KS

SYSTEM NAME:

Employment Inquiries.

SYSTEM LOCATION:

Staffing Labor and Employee Relations Division, Staff Director, Personnel, Headquarters, Defense Logistics Agency (HQ DLA); and Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA civilian and military personnel, contractor employees, and other individuals or organizations on behalf of individuals who have forwarded employment inquiries to Members of Congress, Secretary of Defense, Director of Defense Logistics Agency, Staff Director, or other official.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files include employment inquiries to Members of Congress, Secretary of Defense, Director of Defense Logistics Agency and Staff Director, Personnel, Headquarters, Defense Logistics Agency and others which have been referred to Staff Director, Personnel, for response, action or information. These include statements of qualifications, letters photographs, letters of appreciation and recommendation, certificates, ratings, eligibility forms and related papers concerning employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S. Code, § 301, and 302, and E.O. 10561; Department of Defense Directive 5400.4, "Provisions of Information to Congress", and Department of Defense Directive 5105.22, "Defense Logistics Agency".

PURPOSE(S):

Information to maintained for purposes or replying to additional inquiries and follow-up action.

Information is used by: Civilian personnel offices and other appropriate officials of DLA in order to determine qualifications and for giving proper consideration in the filling of vacancies. The civilian personnel office, when hiring applicants, uses information as part of the employee's permanent record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Members of Congress and other individuals or organizations who write to DLA on behalf of an individual and who use it to respond to the individual, of for other related purposes.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and log book.

RETRIEVABILITY:

Filed alphabetically by last name of individual submitting employment inquiry.

SAFEGUARDS:

Records are maintained in locked file cabinets in areas accessible only to Agency personnel.

RETENTION AND DISPOSAL:

Records are retained in active file until end of calendar year and held one to three additional years in inactive file and subsequently retired to Federal Records Center. After a total of ten years records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Personnel, HG DLA; Civilian Personnel Officers, PLFAs.

NOTIFICATION PROCEDURES:

Written or personel requests for information may be directed to the System Manager. Individual must provide full name.

RECORD ACCESS PROCEDURES:

Official mailing address of the System Manager is in the DLA Directory. Written request for information should be addressed to System Manager and contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, such as, driver's license, work identification card, and give some verbal information that that can be verified with his case folder.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information provided by individual involved, and other correspondence relating to the employment inquiry.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S333.10DLA-G

SYSTEM NAME:

Attorney Personal Information and Applicant Files.

SYSTEM LOCATION:

Primary System—Office of General Counsel, Headquarters, Defense Logistics Agency, DLA–G, holds personal information records of all DLA attorneys and applicants for DLA legal positions.

Decentralized segments—Office of Counsel, Primary Level Field Activities (PLFAs) hold personal records for resident attorneys and applicants for positions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DLA attorneys, former DLA attorneys, and applicants for DLA legal positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cover letters, resumes, and Forms submitted by applicants and replies thereto, and records of promotions, courses completed, position descriptions, performance appraisals, personnel actions, educational actions, educational transcripts, recommendations and personal data of DLA attorneys.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3101, General Authority to Employ; Executive Order 10577, Office of Personnel Management, Title 5, Part 213; 10 U.S.C. 137, DLA Regulation 1442.1.

PURPOSE(S):

Applications are used for filing positions in all DLA legal offices. Attorney information folders are maintained for review incident to personnel actions including promotions, performance appraisals, reassignments, etc. and as a general performance and experience record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Parts of these folders may be submitted to other agencies considering the attorney for employment. Information may be used in answering inquiries from individuals, Congressmen or other Government agencies or for verification of employment.

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper rocords in file folders.

RETRIEVABILITY:

Filed by surname of attorney or applicant.

SAFEGUARDS:

Attorney information folders are kept in a locked file cabinet; applicants are kept in file cabinets accessible only to authorized personnel of the Office of Counsel or as determined by Counsel.

RETENTION AND DISPOSAL:

Applicants are kept for one year from receipt. Attorney information folders are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Office of General Counsel, Defense Logistics Agency, DLA–G, and Offices of Counsel, PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and, if appropriate, date application was submitted.

RECORD ACCESS PROCEDURES:

System Managers official mailing address is in the DLA Directory.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Applicants, employees, co-employees, outside references, supervisors, and personnel offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S335.01DLA-K

SYSTEM NAME:

Training and Employee Development Record Systems.

SYSTEM LOCATION:

Headquarters, (HQ) Defense Logistics Agency (DLA) and Primary Level Field Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees, U.S. Citizens and foreign national direct hires receiving training supported by the Federal Government, paid from appropriated

funds. Department of Defense military personnel may be include in the automated training information system, and non-appropriated fund personnel may be include in some of the installation manual records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Automated and non-automated records are maintained reflecting information pertaining to the employee's identification, Social Security Number, (SSN) occupational status (series, grade level and supervisory status) course identification, course length, category and purpose of training received, date on which training was completed, associated costs, pre-post test results, and similar data. Input documents for the systems include, but are not limited to completed automated forms, training reports, authorization and record, key punched cards. The manual files are maintained in paper folders containing employees' registration and records of training documents. Apprentice, on-the-job training program, and similar trainee intake program manual and automated records are maintained, reflecting information pertaining to subject employee's identification, date of birth, entrance date of program, dates and nature of personnel actions which occurred during fiscal year, student progress, and statistical data which affects the numbers of apprentices in training as of a given date. At HQ DLA, nomination forms and documents (non-automated) for centrally-administered education and training programs are maintained. The manual files contain the candidate's nomination documents, training request, enrollment and registration and other documents related to training. Manual files are maintained at installations regarding courses conducted on their premises, or for which they sponsor, listing such things as completion dates and course participants. Additionally, manual files are typically found at the field activities containing information regarding an employee's supervisory status, an indication as to whether or not he/she has participated in supervisory training. Files are often maintained regarding an employee's certification/recertification or demonstrated proficiency in one or more skills areas, an activity-wide annual training plan should also be maintained, as well as individual training plans. Files are also maintained regarding professional licenses held by installation personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4103, 4118, and 4115.

PURPOSE(S):

Information is used by officials and employees of DLA and other DOD Components in the performance of their official duties related to the management of the civilian employee training program, the design, development, maintenance and operation of the manual and automated system of record keeping and reporting; the screening and selection of candidates for centrally administered programs; and administration of grievance, appeals, complaints and litigation involving the disclosure of records of the training programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is also used by representatives of the Office of Personnel Management (OPM) on matters relating to the inspection, survey, audit or evaluation of DOD civilian training programs, or such other matters under the jurisdiction of the OPM. The Comptroller General or any of his authorized representatives in the courses of the performance of duties of the General Accounting Office relating to the Defense components civilian training programs. The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies. Officials and employees of the Executive Branch of government upon request in the performance of their official duties related to the screening and selection of candidates for programs sponsored by their organization. Representatives of the U.S. Department of Labor on matters relating to the inspection, survey, audit or evaluation of apprentice training programs and other such matters under the jurisdiction of the Labor Department. Representatives of the Veterans Administration on matters relating to the inspection, survey, audit or evaluation of apprentice and on-the-job training programs. The computer-systems group contractor (or other such contractor) and its employees for the purpose of card punch recording of data from employee training documents. A duly appointed hearing examiner or arbitrator for the purpose of conducting a hearing in connection with an employee's grievance involving the disclosure of the records of the training programs. An arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving the disclosure of the records in order to evaluate training and employee development record systems.

The Senate or the House of Representatives of the United States or any committee or subcommittee thereof, any joint committee of Congress or subcommittee, or Joint Committees on matters within their jurisdiction requiring disclosure of the files of records of civilian training programs.

Representatives of educational institutions which have been awarded contracts to conduct training in order to create and maintain individual training records of those who attend.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tapes, drums, computer printouts, and on punched cards. Manual records are stored in paper file folders.

RETRIEVABILITY:

Automated records are retrieved by SSN and name, or by one, or a combination of data elements contained in the program master files. Manual records are retrieved by employee last name, by course control information, or by training program title.

SAFEGUARDS:

The computer facilities are located in restricted areas accessible only to authorized persons that are properly screened, cleared and training. Manual records and computer printouts are available only to authorized personnel having a need-to-know.

RETENTION AND DISPOSAL:

Manual records are maintained on a fiscal year basis and are retained for varying periods from one to five fiscal years. For centrally administered programs, files on selected candidates are maintained for five years (from date selection process is completed). Records of non-selected candidates are retained only for that period of time sufficient to permit appropriate review (usually less than 60 days). Some installation records are maintained for varying periods.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Requests by correspondence should be addressed to the Civilian Personnel Officer or comparable official of the Civilian Personnel Office servicing the activity/installation.

NOTIFICATION PROCEDURES:

Requests by correspondence should be addressed to the Civilian Personnel Officer servicing the headquarters or

field activities employing civilians. The letter should contain the full name of the requester and his signature. Proof of identification will consist of a DoD building pass or identification badge, driver's license, or any other type of identification bearing an employee picture and signature.

RECORD ACCESS PROCEDURES:

Above procedures for notification apply.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting the contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Civilian Personnel Offices: Current and previous supervisors of employees (when appraisals of performance/potential are used).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S336.10DCRS-F

SYSTEM NAME:

Personnel Cost Forecast System.

SYSTEM LOCATION:

Budget Function, Budget and Management Support Division, Office of Systems and Financial Management, Defense Contract Administration Service Region (DCASR) St. Louis, MO.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former civilian personnel assigned to DCASR St. Louis, MO.

CATEGORIES OF RECORDS IN THE SYSTEM:

Master employee record showing grade, date of next step increase, assignment code, and in some instances, hourly rate. Personnel Cost Forecast listings showing assignment and projected salary for each GS salaried employee by month. Manual subsidiary records are kept by employee showing date entered on duty, date departed, promotion date, and incentive awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Ch. 53, Pay Rates and Systems; 10 U.S.C. 136.

PURPOSE(S):

The system is used to project basic pay costs in the budget development and execution stages at DCASR, St. Louis. Statistical records are maintained for at least three prior years to develop promotion trends, attrition rates, average grades of employees leaving, and average grade of new hires.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Listings are stored in binders. Other data is maintained on 13 column work paper.

RETRIEVABILITY:

Master file is in alphabetical sequence and controlled by Social Security Number. The Personnel Forecast Listings are generated, one at branch level and the other by cost code. Both controlled by Social Security Number.

SAFEGUARDS:

Records are maintained in budget area and are restricted to personnel performing budget duties.

RETENTION AND DISPOSAL:

Mechanized listings are retained for current year plus one prior year. Manual records are retained for current year plus three prior years.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Chief, Office of Systems and Financial Management, DCASR, St. Louis, MO.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager or to the senior budget analyst, Budget and Management Support Division, Office of Systems and Financial Management, DCASR, St. Louis, MO 63101.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the System Manager. Written requests should contain full name, current address, and telephone, of individual. For personal visits, individuals should be able to provide some acceptable identification that can be verified with the files such as identification badge or driver's license. Official mailing addresses are in the DLA Directory. Social Security Number is used as an identifier in this system.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Personnel actions generated by the Office of Civilian Personnel, DCASR, St. Louis, MO.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S336.60DLA-KM

SYSTEM NAME:

Position Classification Appeals.

SYSTEM LOCATION:

Headquarters (HQ), Defense Logistics Agency (DLA) for those cases requiring Headquarters decision, and at DLA Primary Level Field Activities (PLFAs) for others.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DOD employees serviced by a DLA Personnel office who have filed classification or job grading appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files relating to individual or group classification appeals consisting of the written appeal, complete identification of the position, position organization chart, functional statement, comprehensive evaluation statement which has been reviewed by the individual or groups submitting the apeal (the appellant), effects to resolve locally, recommended action and any supplemental information pertinent to the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5112 and 5113; FPM Chapter 511, Subchapter 6.

PURPOSE(S):

Personnel specialists at HQ DLA use this file to adjudicate the classification appeal when a DLA employee appeals the classification of his position to Headquarters; PLFA and HQ DLA may also use this file as a reference for classification precedent in classifying other DLA PLFA positions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is used by the Office of Personnel Management (OPM) during the review of classification appeals by DLA employees. Personnel specialists at the PLFA will furnish file to appropriate OPM Regional Office when a DLA employee appeals directly to the OPM.

OPM officials use this file to adjudicate the classification appeal when DLA employees appeal the

classification of their position directly to OPM.

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Accessed by classification series, appellant's name and organization.

SAFEGUARDS:

Made available to appellant, DLA personnel specialists concerned and OPM.

RETENTION AND DISPOSAL:

Placed in inactive file after final decision and completion of any resultant action. HQ DLA precident-setting decision cases, excluding personal data, are filed with Classification Standards and kept until superseded. The PLFA inactive file is cut off at the end of the calendar year, held 5 yeas in current files areas, then destroyed. HQ DLA files are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Personnel, HQ DLA; DLA PLFA Civilian Personnel Officers.

NOTIFICATION PROCEDURES:

Requests may be directed tot he appropriate PLFA Civilian Personnel Officer or to Staff Director, Personnel, HQ DLA. The employee or former employee must provide full name, DLA organizational element in which employed at time of appeal, position description number and, if requesting in person, must present activity identification badge or other suitable identification.

RECORD ACCESS PROCEDURES:

Assistance may be obtained from System Manager. Official mailing addresses are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should provide full name, organizational element at time of appeal, position description number and activity identification badge or other suitable identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Appellant, cognizant Personnel Office, supervisors, HQ DLA Personnel Office staff and OPM officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S337.01DLA-K

SYSTEM NAME:

Labor Management Relations Records Systems.

SYSTEM LOCATION:

Headquarters, Defense Logistics Agency (HQ DLA) and Primary Level Field Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees who are involved in grievances which have been referred to an arbitrator for resolution; civilian employees involved in the filing of Unfair Labor Practice complaints which have been referred to the Assistant Secretary of Labor for Management Relations; union officials; union stewards; and representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Folder contains all information pertaining to a specific arbitration case or specific alleged Unfair Labor Practice involving DLA or the Department of Defense; field activities maintain roster of local union officials and union stewards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 11491 as amended, "Labor-Management Relations in the Federal Service."

PURPOSE(S):

Officials and employees of the Department of Defense (to include Army, Navy, Air Force, and other DoD agencies) in the performance of their official duties related to the Labor-Management Relations Program, e.g., administration/implementation of arbitration awards, interpretation of the Executive Order through third party case decisions; national consultation and other dealings with the recognized unions.

Officials and employees of the components of the Department of Defense in the performance of their official duties related to the administration of the Labor-Management Relations Program. A duly appointed hearing examiner or arbitrator for the purpose of conducting a hearing in connection with an employee's grievance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Representatives of the U.S. Office of Personnel Management (OPM) on matters relating to the inspection, survey, audit or evaluation of Civilian Personnel Management Programs.

The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Labor-Management Relations Program.

The Office of the Assistant Secretary of Labor for Management Relation to respond to inquiries from that office regarding complaints referred to or failed with that office.

See blanket routine use set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, maintained in paper folders.

RETRIEVABILITY:

Manual records are retrieved by case subject, case numbers, and/or individual employee names.

SAFEGUARDS:

All individually identifiable files are accessible only to authorized personnel having a need-to-know.

RETENTION AND DISPOSAL:

Case files retained for ten years. Union official rosters are normally destroyed after a new roster has been established.

SYSTEM MANAGER(S) AND ADDRESSES:

Civilian Personnel Officer or comparable official of the Civilian Personnel Office servicing the activity/installation.

NOTIFICATION PROCEDURES:

Request by correspondence should be addressed to: Civilian Personnel Officer of activity/installation. The letter should contain the full name and signature of the requester. The individual may visit the Department of the Defense activity at which he or she is employed.

RECORD ACCESS PROCEDURES:

Procedures for notification shown above apply. In addition, requester must be able to provide some suitable type of identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations

may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Servicing Civilian personnel Offices, arbitrator's office, Office of Assistant Secretary of Labor for Labor-Management Relations, union officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S337.25DLA-K

SYSTEM NAME:

Employee Relations Under Negotiated Grievance Procedures.

SYSTEM LOCATION:

Headquarters, Defense Logistics Agency (HQ DLA) and Primary Level Field Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense civilian employees on whom discipline, grievance, and complaints records exist. Discrimination complaints of civilian employees, applicants for employment and former employees in appropriated and non-appropriated positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual files, maintained in paper folders, contain copies of documents and information pertaining to discipline, grievance, complaints, and appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 9830, Amending the Civil Service Rules and providing for Federal Personnel Administration; 4 U.S.C 1302, 3301, and 3302; E.O. 10577; Pub. L. 92–261; Equal Employment Opportunity Act of 1972; Pub. L. 93–259, Extension of Age Discrimination in Employment Act of 1967; 5 U.S.C. 7512; E.O. 11491, Labor-Management Relations in the Federal Services.

PURPOSE(S):

Officials of the Department of Defense (to include Army, Navy, Air Force or other DOD agencies) in the performance of their official duties related to the management of civilian employees in the processing, administration, and adjudication of discipline, grievance, complaints, appeals, litigation, and program evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Representatives of the Office of Personnel Management (OPM) on matters relating to the inspection, survey, audit or evaluation of civilian personnel management programs or personnel actions, or such other matters under the jurisdiction of the OPM. Appeals authority for the purpose of conducting hearings in connection with employee's appeals from adverse actions and formal discrimination complaints.

The Comptroller General or any of his authorized representatives in the course of the performance of duties of the General Accounting Office relating to the civilian manpower management programs.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

The Senate or the House of Representatives of the United States or any member, committee or subcommittee or joint committees on matters within their jurisdiction relating to the above programs.

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records are stored in paper folders.

RETRIEVABILITY:

Manual records are filed by last name.

SAFEGUARDS:

All records are stored under strict control and are available only to authorized personnel having a need-to-know.

RETENTION AND DISPOSAL:

Manual records destroyed after five years.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Civlian Personnel Officer or comparable official of the Civilian Personnel Office servicing the Department of Defense activity/installation.

NOTIFICATION PROCEDURES:

Request by correspondence should be addressed to: Civlian Personnel Office of activity/installation. The letter should contain the full name and signature of the requester and the type of record sought. The individual may visit the activity at which he or she is employed.

RECORD ACCESS PROCEDURES:

Above procedures for notification apply. In addition, when visiting the requester must provide some suitable type of identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents, and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisiors or other appointed officials designated for this purpose.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S339.10DLA-K

SYSTEM NAME:

HQ DLA Automated Civilian Personnel Data Bank System.

SYSTEM LOCATION:

Office of Civilian Personnel, Defense Logistics Agency (DLA) Administrative Support Center (DASC–Z), Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizen civilian employees of the DLA who are paid from appropriated funds, and former such employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records and print-outs containing data on current position occupied by employee, employee's current employment status with DLA, training data, and selected personnel information such as: Social Security Number, name, sex race race and national origin identification, date of birth, physical handicap, government insurance, veteran's preference, military reserve status, retired military status, education, and whether individual passed the Federal Service Entrance Examination or Professional and Administrative Career Examination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S. Code 301, 301, 2951, 2952, and 2954. E.O. 10561, E.O. 9397, and Federal Personnel Manual Chapters 250, 290 and 291.

PURPOSE(S):

The purpose of this system is to provide information to officials of DLA for effective personnel administration.

Information is used: To provide management data to officials of DoD by transfer of current data to the Defense Manpower Data Center (DMDC) on a quarterly basis. To provide management data for use of HQ DLA and Field officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is used to prepare reports required by the Executive legislative and Judicial Branches of government to transfer current data to the Office of Personnel Management (OPM) on a monthly basis for incluusion in their Central Personnel file.

To members or committees of Congress with a stated valid need for the information in the performance of their official duties.

To furnish or publish information on the DLA civilian workforce to Federal agencies, the Congress, or courts of law and other Freedom of Information Act releases.

To provide information in litigation and other administrative review processes.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disc, computer paper printouts, microfiches.

RETRIEVABILITY:

Records identified to a specific civilian employee are accessed and retrieved by social security account number.

SAFEGUARDS:

Paper printouts or microfiche records which contain only statistical information are released to responsible persons whose stated needs are not in violation of Federal Statute.

Paper printouts or microfiche records which contain individually identifiable information are releasable only under conditions authorized by Federal Statute.

Records are secured in appropriate storage and/or file cabinets when not under the control of personnel officials durings duty hours.

During non-duty hours, records are secured in either locked storage and/or file cabinets. The area in which the records are secured is protected by a building security guard system.

Individually identifiable personnel documents will either be hand-carried or will be transmitted in envelopes addressed to a specific office or individual and marked to be opened by addressee only.

Magnetic tape and disc are kept in the computer room which is itself a security container with locked door and access limited to persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing and are logged in and out only to cleared personnel with an official need. Tapes are transmitted to the Office of Personnel Management by mail or courier. Reports with individual data are closely controlled. Personnel who process these reports are appropriately cleared and maintain continuous observation of reports during all processing phases. Reports are kept under appropriate physical safeguards when not being processed or used.

An individual requesting information in records must identify self and his or her relationship to the individual upon whom the record information requested.

When an individual other than the individual of record requests a record, the System Manager or his delegated assistant determines if request is reasonable and consistent with provisions of the Freedom of Information Act (5 U.S.C. 552).

Physical access, that is the ability to obtain the record, is limited to: Personnel office officials, Office of Personnel Management officials, data processing officials, supervisors for those records which they are authorized to maintain.

RETENTION AND DISPOSAL:

Printouts or microfiche reports are considered as working papers to support particular projects, inquiries, studies or administrative need. They will be retained until the purpose for which generated has been met. They will then be destroyed by shredding or burning.

Data maintained on magnetic tape or disc are to be retained for five years. They will then be degaussed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Chief, Personnel Division, DASC, Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURES:

Information may be obtained from: Chief, Personnel Division, DASC–Z, Room 3A696, Cameron Station, Alexandria, VA 22314.

Requester must provide last name, first name, middle initial, and social security account number. If request is by mail, requester must also furnish current address.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to:

Chief, Personnel Division, DASC–Z, Room 3A696, Cameron Station, Alexandria, Va 22314.

Requests for information must be in writing and contain last name, first name, middle initial, date of birth, current address, phone number, phone number where individual may be reached during the day, and a signed statement certifying that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to 5,000 dollars. Complete records are maintained only on magnetic tapes or discs and are not available for access by personal visits. Social Security Numbers are used to access these records.

CONTESTING RECORD PROCEDURES:

The DLA rule for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Input from employees of civilian personnel offices and Equal Employment Managers who obtain information from: The Official Personnel Folder and other personnel documents, personal contact with individual concerned, applications and forms completed by the individual, and input from interface with the DLA Automated Payroll, Cost and Personnel System (APCAPS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S339.50DLA–K

SYSTEM NAME:

Supervisors' Personnel Records.

SYSTEM LOCATION:

Office of supervisors or managers of individuals at each Defense Logistics Agency (DLA) activity.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA civilian employees, full time and part time, paid from appropriated or nonappropriated funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of supervisors who are geographically accessible to their employees' Official Personnel Folders may contain Standard Forms 7A and 7B (Employee Record Card and continuation); supervisor's copy of position description, performance evaluations, other evaluations for official purposes (such as promotion or for shortcomings, for use in developing performance evaluations, for counseling employees and for basing disciplinary actions; records of training requested, scheduled or taken; printouts from automated personnel systems providing supervisors with day-to-day operating level information concerning their employees; letters, documents, notations

or other information maintained only temporarily by the supervisor regarding an individual employee during the time some particular action relating to the employee is being planned or taken. Information in these records is essential to effective supervision. An operating or work personnel folder may be maintained by operating officials in field offices geographically remote from the personnel office, or by personnel or administrative authority (and their official personnel folders are maintained by higher echelon in another city or geographic location). In addition to the contents listed above, such records may contain information on employee experience, education, special qualifications and skills and conduct.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302; E.O. 10561; FPM Supplement 293–31, Subchapters 7 and 8.

PURPOSE(S):

Supervisors, managers and other officials of the DLA in carrying out their official duties for supervision and counseling of civilian employees and the administration of employee evaluation, discipline and training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records in file folders or in card files. Records in this system will be kept at only one organizational level and not duplicated in other organizational levels.

RETRIEVABILITY:

By employee name or by organizational segment or, in some cases, by name within subject matter, such as training.

SAFEGUARDS:

All records are maintained under the strict control of the supervisor or other management official and are accessible only to authorized persons. They are retained in locked cabinets, in supervisors' locked desk drawers or in a secured room or area.

RETENTION AND DISPOSAL:

Records are maintained during the employee's tenure with the particular supervisor or organization and, after purging, are transferred to the employee's subsequent supervisor if in the same DLA activity. When an employee leaves the activity through transfer or other separation the records will be sent to the personnel office for comparison with the official personnel folder. The personnel office will screen the records to ensure that no documents are included which should be permanently filed in the official personnel folder and then destroy the remainder. Documents which are purged from the official personnel folder during employment are also purged from supervisor's records.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Civilian Personnel Officer servicing the DLA activity involved.

NOTIFICATION PROCEDURES:

Requests for information will normally be addressed to the employee's immediate supervisor or to a higher level supervisor. Request by correspondence should be addressed to the Civilian Personnel Officer of the particular activity where the individual is employed or was formerly employed. Mailing addresses are provided in the DLA directory. The letter should contain the full name of the requester and his signature.

RECORD ACCESS PROCEDURES:

The DLA rules for access to records by individuals may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The data is gathered from the individual employee, the employee's present and former supervisors at various levels, from official personnel folders and other personnel documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S339.50DSAC–L

SYSTEM NAME:

Staff Information File.

SYSTEM LOCATION:

Defense Logistics Agency (DLA), Systems Automation Center (DSAC), P.O. Box 1605, Columbus, Ohio 43216.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DSAC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records and print-outs containing personnel type information about each staff member, including name, home address, grade, sex, job class, position title, home and office telephone numbers, birth date, service computation date, subsidiary cost code, office symbol, position code, supervisory code, employee account number, minority group designator, War Emergency support Plan assignment, and AUTOVON approval.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in 10 U.S.C. 133, the Secretary of Defense has issued DOD Directive 5105.22 (32 CFR Part 359) establishing the DLA as a separate agency of the Department of Defense under his direction and therein has charged the Director, DLA, with the responsibility for the maintenance of necessary and appropriate records.

PURPOSE(S):

Information is maintained to provide readily accessible data about staff which are required for day-to-day operations and which would be impractical to organize and use on a manual basis or from other records. Information is used by officials of the DSAC and the Defense Construction Supply Center (DCSC): As a reference report to determine or verify data concerning each staff member in the process of day-to-day operations; to provide the Operations Control Center the capability to contact individuals during nonduty hours for providing assistance to system users; to determine staff members eligible for retirement in the next five years and develop plans as necessary for replacement of personnel who could retire; to provide a complete list by organization assignment and to identify location of each staff member, account for vacancies and encumbered positions and determine progress toward average grade level goal(s); for accounting purposes in submitting jobs to the computer center; to provide a list of the identifying numbers assigned to each staff position for use in various personnel actions; to provide a list of subsidiary cost codes assigned to each individual, to determine that correct code is assigned, for use on various personnel actions; to assign parking spaces; to identify individuals assigned responsibility under the War Emergency Support Plan (WESP); to identify individuals eligible to authorize AUTOVON calls during non-duty hours; to verify and/or modify the Profile data Analysis Report concerning minority

and female employees; and to produce a telephone list for DSAC staff use.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disk storage media and hard copy printouts.

RETRIEVABILITY:

Individual information is retrievable by Employee Account Number.

SAFEGUARDS:

Information is disclosed only to agency officials on a need-to-know basis.

RETENTION AND DISPOSAL:

Reports are destroyed when superseded by new reports.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Commander, DLA Systems Automation Center, P.O. Box 1605; Columbus, Ohio 43216.

NOTIFICATION PROCEDURES:

Requests should be addressed to the System Manager. Individual must provide full name and Employee Account number. Personal visits may be made to the Office of Planning & Management, DSAC. Individual must provide identification card/badge or other Federal Government-issued identification.

RECORD ACCESS PROCEDURE:

Procedures same as for notification.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual personnel actions, DSCS Name and Address Change Notice, and other similar documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S352.10DLA-K

SYSTEM NAME:

Nominations for Awards.

SYSTEM LOCATION:

Organizational elements of Headquarters, Defense Logistics Agency (DLA) and Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian personnel assigned to DLA who are nominated for Department of Defense, (DoD), other government activities and private organizations; for cash awards which exceed $1,000 based on tangible benefits, $500 based on intangible benefits or $1,500 based on a combination of tangible and intangible benefits and various other awards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Justifications submitted in support of award nominations, award evaluation statements, photographs when required by the sponsoring organization, minutes of DLA Recognition and Awards Board meetings, registers of cases, and reports submitted to Office of the Secretary of Defense and the Office of Personnel Management (OPM).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501–4506, 10 U.S.C. 1124, Chapter 451 of the Federal Personnel Manual.

PURPOSE(S):

Information is maintained in support of action taken on contributions and award nominations and for preparation of statistical and narrative reports required by Office of the Secretary of Defense. Information is used by: Headquarters Defense Logistics Agency (HQ DLA): Nominations for DLA Primary Level Field Activities (PLFA). Above files plus all Workforce Effectiveness and Development Division, Staff Director, Civilian personnel, honorary awards sponsored by DLA, Office of the Secretary. Members of DLA Recognition and Awards Board—to evaluate contributions requiring approval of the Director, DLA.

Officials of other DoD Components—to evaluate for possible adoption and use contributions made by DLA personnel that concern the operation of their functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is maintained in support of action taken on contributions and award nominations and for preparation of statistical and narrative reports required by the Office of Personnel Management:

Information is used by:

Members of other federal activities and members of private organizations—to evaluate nominations for awards sponsored by them for which DLA personnel are nominated.

Other government activities—to evaluate for possible adoption and use contributions made by DLA personnel that concern the operation of their functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in the file folders, card index files, and registers in notebooks.

RETRIEVABILITY:

Award nominations may be filed alphabetically by nominee's name or by award title, in personnel offices. Filed by type of award or suggestion in organizational elements of HQ DLA and PLFAs.

SAFEGUARDS:

Maintained in locked containers in areas accessible only to Agency personnel.

RETENTION AND DISPOSAL:

Nominations of Awards—files are closed upon completion of the action, cut-off at the end of the fiscal year, held for two years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Incentive Awards Administrator, Chief, Workforce Effectiveness and Development Division, Staff Director, Personnel, HQ DLA; Civilian Personnel Officers of DLA PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individuals must provide full name and type of award for which nominated and activity at which nomination was submitted.

RECORD ACCESS PROCEDURES:

Requests for assistance should be directed to the System Manager. Official mailing addresses are in the DLA Directory. Individual must provide full name and type of award for which nominated and activity at which nomination was submitted.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA supervisors and managers who initiate and evaluate nominations, members of DLA Recognition and Awards Board.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S355.02DCIDO

SYSTEM NAME:

Intern Records.

SYSTEM LOCATION:

Defense Logistics Agency (DLA), Centralized Intern Development Office (DCIDO–X), Defense Construction Supply Center, 3990 E. Broad Street, Columbus, Ohio 43215; and DLA Civilian Personnel Management Support Office (DCMO), Defense Construction Supply Center, 3990 E. Broad Street, Columbus, Ohio 43215.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former DCIDO interns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Automated and manual files containing personal and training (formal and on-the-job) data on all interns (past and present) employed by DCIDO. These records contain the name of program, date of birth, sex, minority group designator, entrance on duty, address, recruitment location, education, activity assigned, target position, date of completion of DCIDO training, reasons for non-completion/effective date, formal training received, completion date, on-the-job training received, and completion date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4103, 4115, & 4118.

PURPOSE(S):

To maintain training records and demographics on all interns employed by DCIDO; to provide information to DLA regarding EEO progress and for effective personnel management and administration. Records the training each intern has received to insure training objectives are being met as required in the Program of Instruction. Also used by staff personnel to evaluate program and individual intern progress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated files are stored on magnetic tapes/disks. Manual files are stored on 5 x 8 index cards in file cabinets and computer printouts.

RETRIEVABILITY:

Automated records are retrieved by name, social security number, and career intern training program. Manual records are retrieved by employee name and career intern training program.

SAFEGUARDS:

Records are maintained in an area that is accessible to office personnel only. Records are retained in locked cabinets and computer fail-safe system soft-ware. Records will be available only to authorized personnel on a need-to-know basis in conection with their official duties. Magnetic tapes or discs are stored in a tape library when not used in processing.

RETENTION AND DISPOSAL:

Manual reports are retained for current year plus nine prior years. Mechanized listings are retained for one year and then are destroyed by shredding or burning. Tapes and/or discs are retained until no longer needed for reference or ten years, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Director, DLA Centralized Intern Development Office, 3990 E. Broad Street, Columbus, Ohio 43215.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be obtained from the System manager. Individual must provide full name, and career program. Social Security Number is used as an identifier in this system.

RECORD ACCESS PROCEDURES:

Assistance may be obtained from Administrative Officer, DCIDO, 3990 E. Broad Street, Columbus, Ohio 43215. Written requests or personal visits, individual must provide full name and signature, current address, and career program. Specific proof of identification is not normally required. Social Security Numbers are used to retrieve records from this system.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Civilian Personnel; Chiefs, Career Intern Training Programs, information provided by personnel, OJT supervisors and training instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S370.20DLA-WH

SYSTEM NAME:

Individual Accident Case Files.

SYSTEM LOCATION:

Primary System—Case files on A, B, and C Class injuries/illness, property damage accidents when damage exceeds $1000, and motor vehicle accidents with A, B, or C Class injuries/illness or property damge exceeding $1000. Partial case files for all A, B, C, D and E Class injuries and illnesses; A, B, C, and D Class property damages and A, B, C, and D class motor vehicle accidents are maintained in the automated records files: Office of Installation Services and Environmental Protection, Headquarters, Defense Logistics Agency (HQ DLA).

Decentralized segments—Above files plus all other injuries and accidents: HQ and DLA principal staff elements, DLA Primary Level Field Activities (PLFAs), secondary and third level field activities, where incidents occurred.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel, contractor employees, and other personnel who are injured on the premises of DLA or performing assignment incident to DLA operations. Also may include individuals involved in accidental damage to vehicles, equipment, and property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports, statements of witnesses, photographs and related papers, including summarized information maintained for the purpose of identifying accident repeaters and safety award receipints, regarding accidents incident to DLA operations, pertaining to injuries to individuals or accidents involving motor vehicles and other equipment or structural property damage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 651, *et seq.*, The Occupational Safety and Health Act of 1970 (OSHA); Executive Order 12196, Occupational Safety and Health Programs for Federal Employees.

PURPOSE(S):

Information is maintained to identify cause of accident, to formulate accident prevention programs, to identify individual involved in repeated accidents, to present safety awards to individuals and to prepare statistical reports as required.

Information is used by:

Agency supervisors and managers—to determine actions required to correct the cause of the accidents.

Safety offices—to insure actions proposed by supervisors and managers

are adequate to prevent future accidents, to identify accident repeaters and safety award recipients, to provide verification that accidents have occurred when processing workmen's compensation cases, to prepare statistical reports, accident summaries, and accident prevention information for inclusion in Agency internal publications.

Security personnel—to determine accident causes, and to formulate possible changes in activity rules of conduct.

Medical personnel—to make medical determinations about individuals involved in accidents.

Facilities engineers and maintenance personnel—to formulate future installation facilities and equipment plans and budgets and to change operating procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card index files and automated record files.

RETRIEVABILITY:

Filed by organizational activity and/or alphabetically by last name of injured person or principal person involved in accident, when known.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA Safety and Health personnel.

RETENTION AND DISPOSAL:

Records are destroyed ten years after the case is closed. They are retained in active file until end of calendar year in which case is closed, held one to three additional years in inactive file and subsequently retired to Federal Records Center, held for the remaining years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Office of Installations Services and Environmental Protection, DLA; Safety Officers, DLA Primary Level Field Activities.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and name of DLA activity at which incident occurred; or if individual is or was a DLA employee, name of employing activity is also required.

RECORD ACCESS PROCEDURE:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual and a signed statement asserting his or her identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employment identification card, and give some verbal information that could be verified from the case folder.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contests and appealing intial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, medical units, DLA protective service, civilian police, fire department, investigating officer, or witness to accident.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S308.01 DLA-K

SYSTEM NAME:

Employee Assistance Program Case Record Systems.

SYSTEM LOCATION:

Headquarters Defense Logistics Agency (HQ DLA) and Primary Level Field Activities (PFLA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees in appropriated and non-appropriated fund activities who are referred by management for, or voluntarily request, counseling assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Systems are comprised of case records on employees which are maintained by counselors, supervisors, civilian personnel offices and social action offices and consist of information on condition, current status, and progress of employees or dependents who have alcohol, drug, emotional, or other job performance problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1175; Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, 42 U.S.C. 4582; Subchapter A of Chapter I, Title 42, Code of Federal Regulations; 5, U.S.C. Ch. 43.

PURPOSE(S):

Used by the counselors in the execution of their counseling function as it applies to the individual employee; selected information may be provided to and used by other counselors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by medical personnel, research personnel, employers, representatives such as legal counsel, and to other agencies or individuals when disclosure is to the employee's benefit, such as for processing retirement applications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Case records are stored in paper file folders.

RETRIEVABILITY:

By employee name, locally assigned identifying number of by case number.

SAFEGUARDS:

All records are stored under strict control. They are maintained in spaces normally accessible only to authorized person, normally in locked cabinets.

RETENTION AND DISPOSAL:

Records are purged of identifying information within five years after termination of counseling or destroyed when they are no longer useful.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Personnel Officer or comparable official of the Civilan Personnel Office servicing the activity or installation.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to servicing civilian personnel office or to the appropriate Employer Assistance Program administrator at the activity. The letter should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

The rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Counselors, other officials, individuals or practioners, and other agencies both in and outside of Government.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Civilian Medical Case Files.

SYSTEM LOCATION:

Geographically decentralized to Defense Logistics Agency (DLA) Primary Level Field Activities (PLFA), secondary and third level field activities where records are maintained.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and other personnel who are provided medical support at DLA activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Health records containing periodic medical reports, injury reports, dispensary treatment records, allergy history, immunization records, medical correspondence, reports of dispensary treatments, reports from private physicians of health units, records of immunizations and allergies, records of health related work assignment restrictions. This system excludes pre-employment physical examinations, Health Qualification Placement Records, disability retirement examinations which become part of the Official Personnel Folders (Standard Form 66) upon separation, but which may be maintained separately from the folder prior to separation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901, Health Service Programs.

PURPOSE(S):

Information is maintained in support of the medical treatment and preventive health programs. Medical and health personnel use the records to prescribe treatment, identify health problems, and interpose health related restrictions of work activities. They provide necessary information to agency supervisors and managers to alleviate health related problems on the job and to insure compliance with health related restrictions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card index files, magnetic tape and disk, computer paper printout, microfiche.

RETRIEVABILITY:

Filed alphabetically by last name.

SAFEGUARDS:

Records are maintained in locked cabinets or in secured rooms. Access is limited to the health unit staff.

RENTENTION AND DISPOSAL:

New files are set up each year. Records from previous years related to an individual are brought forward when that individual is treated again. Records are destroyed six years after date of last papers in file.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Director, Personnel, DLA Primary Level Field Activities.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Written requests shall include a signed employee statement authorizing release of record material.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Manager are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual and a signed statement asserting his or her identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to 5,000 dollars. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified with his 'case' folder.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Physicians, medical technicians, administrative personnel engaged in medical treatment or health programs at agency, contract or private facilities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S390.01DLA-KE

SYSTEM NAME:

Grievance Examiners and Equal Employment Opportunity Investigators Program.

SYSTEM LOCATION:

Office of Equal Opportunity, Staff Director, Personnel, Headquarters Defense Logistics Agency (HQ DLA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Retired Federal civilian and military employees and others approved by HQ DLA as grievance examiners and EEO investigators for the Agency and available to serve under a non-personal services contract are listed by name on regional rosters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include regional rosters of the names of approved investigators/examiners of grievances and Equal Employment Opportunity (EEO) complaints which are available to Commanders of Defense Logistics Agency Primary Level Field Activities.

Agency regional rosters, certificates of training, personal qualifications statement, and related correspondence and papers pertinent to Agency grievance examiners and EEO investigators program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, & 3105. E.O. 11478, as amended.

PROPOSE(S):

The purpose of this system is to maintain information for establishing Agency grievance and EEO investigators program and insuring the availability of quality personnel on short notice.

Information is used by Civilian Personnel officials of HQ DLA and other involved DLA HQ and field officials to select and supervise grievance examiners and EEO investigators as required.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name within each regional area.

SAFEGUARDS:

Records are maintained in locked file cabinets in areas accessible only to Agency personnel.

RETENTION AND DISPOSAL:

Records are retained in active file on current basis. New approvals are added continuously and deletions or withdrawals are held one to three years in inactive file and subsequently retired to Federal Records Center. Records are destroyed after a total of ten years.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Personnel, HQ DLA.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and, if a current DLA employee, name of DLA activity at which employed.

RECORD ACCESS PROCEDURE:

Official mailing address is in the DLA Directory. Written requests for information should be addressed to the System Manager and contain the full name, current address and telephone numbers of the individual. The individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified from the Agency folder.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

DLA PLFA Commanders, DLA civilian personnel office staffs, other DLA officials and others who may be able to recommend or provide information on potential or present candidates for this work.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S434.15DLA-C

SYSTEM NAME:

Automated Payroll Cost and Personnel System (APCAPS).

SYSTEM LOCATION:

Records maintained at Defense Logistics Agency (DLA) Centers, Depots and Defense Contract Administration Service Regions (DCASRs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian and military personnel who have been paid or costed by APCAPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in manual and mechanical files and contain all data which affect an employee's pay, deductions, employer contributions, leave, retirement, position status, or cost accumulation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, and DoD Directive 5105.22.

PURPOSE(S):

Information is used in preparing payrolls, cost and manpower reports.

Information is used by: Agency supervisors and managers—to determine leave usage, manpower allocations and labor distribution. Supervisors and managers of agencies and activities other than DLA who receive payroll/cost accounting support from APCAPS—to determine leave usage, manpower allocations, labor distributions and costs.

Payroll office—to compute and control payroll and allocate labor costs.

Personnel office—to determine leave usage and changes that affect an employee's pay.

Security office—to determine location of employees.

Disbursing office—to determine the distribution of checks and bonds.

Law Enforcement/Security Personnel: To officials designated by the Head, PLFA or by regulation to perform law enforcement, safety, and vehicle registration/parking duties. Only the shift number, if an individual works shift work, will be accessed and used from APCAPS. The information will be used as a control to ensure the integrity of information in systems S161.30 DLA-T and S161.50 DLA-T and to facilitate the audit of such file.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

Financial Institutions—to determine disposition of net pay or allotments pay.

Treasury Department—to determine registration of bonds and federal tax allocation.

Unions, charities, and insurance organizations—to determine participation in those organizations.

Office of Personnel Management—to determine status of employee and for disposition of retirement records.

State and local taxing authorities—to determine tax liability.

Non-government organizations—to verify employment and credit data furnished to financial institutions by the employee.

Bureau of Employment Compensation—to process employee disability claims.

State employment offices—to submit data for unemployment compensation.

Local courts—to determine the withholding of pay for garnishment of wages.

See also the blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm, magnetic tape, disc pack, computer paper printouts, vertical file cards, paper records in file folders.

RETRIEVABILITY:

Hardcopy documents are filed by payroll block or alphabetically by last name. Data stored on mechanized storage devices are retrieved by SSAN.

SAFEGUARDS:

Access to mechanical records is limited to authorized DLA data systems personnel. All other records are maintained in areas accessible only to agency personnel. Security/Law Enforcement personnel who access APCAPS information through computer terminals (used as control for the integrity of information in S161.30 DLA-T and S161.50 DLA-T) have been cleared with an official need. The information accessed from APCAPS is limited to the items and uses under Routine Uses and is password protected in the automated system.

RETENTION AND DISPOSAL:

Retention of data varies from 1 to 3 days for mechanical working files up to an employee's total length of service with an activity for permanent payroll information.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Comptroller, DLA.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the Chief Payroll Branch, Accounting and Financing Division, Office of Comptroller at each DLA Center and Depot.

RECORD ACCESS PROCEDURES:

Written requests must contain full name and Social Security Number of the employee. Employees making a personal request must present identification. Official mailing addresses are in the DLA Directory.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determination may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, civilian personnel office, military personnel office, financial institutions, local courts, military services or other government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S434.15DLA-KP

SYSTEM NAME:

Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem

SYSTEM LOCATION:

Offices of Civilian Personnel at:

Defense Construction Supply Center (DCSC)
Defense Electronics Supply Center (DESC)
Defense General Supply Center (DGSC)
Defense Personnel Support Center (DPSC)
Defense Property Disposal Service (DPDS)
Defense Depot Memphis (DDMT)
Defense Depot Ogden (DDOU)
Defense Depot Tracy (DDTC)
Defense Depot Mechanicsburg (DDMB)
Defense Logistics Agency Administrative Support Center (DASC)
Defense Contract Administration Services Region (DCASR), Atlanta
Defense Contract Administration Services Region (DCASR), Boston
Defense Contract Administration Services Region (DCASR), Chicago
Defense Contract Administration Services Region (DCASR), Cleveland
Defense Contract Administration Services Region (DCASR), Dallas
Defense Contract Administration Services Region (DCASR), Los Angeles
Defense Contract Administration Services Region (DCASR), New York
Defense Contract Administration Services Region (DCASR), St. Louis

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defense Logistics Agency (DLA) civilian employees serviced by Ofices of Civilian Personnel at the activities listed under LOCATION and other Department of Defense civilian employees who are both serviced by the Offices of Civilian Personnel and paid by the activities listed under LOCATION.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Personnel Folders (OPFs), computer records and files. Employee data segment of APCAPS data bank, including data being manually collected prior to implementation of the automated record system. For the civilian personnel segment of APCAPS, the employee data segment of the APCAPS data bank contains, for civilian employees, current personnel data on employment status and selected personal data, such as Social Security Number (SSN), name, sex, race and national origin identification, date of birth, age, physical handicap, Government insurance, military reserve status, retired military status, education, whether individual passed the Federal Service Entrance Examination or the Professional and Administrative Career Examination, status preceding employment with DLA, U.S. citizenship, and veterans preference.

Position data segment of APCAPS data bank. For the civilian personnel segment of APCAPS, the position data segments of the APCAPS data bank contains position data pertinent to established positions, both those positions occupied by a civilian employee as well as those not so occupied.

Personnel history file. The personnel history file contains a profile of selected civilian employee personnel data as of the most recent transaction processed against it, as well as a chranological extract of all prior transactions processed on the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 & 302; E.O. 10561; Federal Personnel Manual, Chapters 290 and 293.

PURPOSE(S):

Purpose of the system are to affect Federal personnel actions, maintain the Federal personnel service control system, fulfill Federal personnel reporting requirements, and provide information to officials of DLA for effective personnel management and personnel administration.

Officials designated by the Head, PLFA and by regulation to perform law enforcement, safety, and vehicle registration/parking duties. Only the following information will be accessed and used by these individuals. Individual's name, address, directorate and office which assigned, grade, and category (military or civilian). The information will be used as a control to ensure the integrity of information in systems of records S161.30 DLA-T and S161.50 DLA-T and to facilitate an audit of such file.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be released to the listed activities for the following:

Prospective employers for employment determination purposes.

Credit firms for verification of data for credit determination purposes.

Taxing authorities for tax administrative purposes.

Officials of other Executive Branch agencies, such as the Office of Personnel Management for performace of official duties.

Officials of Legislative Branch agencies, such as Congressmen for performance of official duties.

Officials of Judicial Branch activities, such as courts for performance of official duties.

Hospitals, medical offices and institutions for medical/hospital administration purposes.

Executor or administrator of the estate of a deceased employee, former employee or annuitant, or next-of-kin for estate settlement purposes.

See also blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes or discs, computer paper printouts. Paper records in file folders.

RETRIEVABILITY:

Information identified to a specific civilian employee is accessed and retrieved by Social Security Number.

SAFEGUARDS:

Records are either secured in locked storage or file cabinets or kept under the constant observation of personnel office officials during duty hours. During nonduty hours, records are either secured in locked storage or file cabinets; the records file area is locked,

and the building in which the records are stored is protected by building security guard. If the records area is not protected by security guard, all records must be kept in locked storage. Individually identifiable personnel documents will either be handcarried or will be transmitted in envelopes addressed to a specific office or individual and marked to be opened by addressee only. Magnetic tapes and discs are kept in the computer room which is itself a security container with locked door and access limited to persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing, and are logged in and out only to cleared personnel with an official need. Reports with individual appropriately cleared and maintain continuous observation of reports during all processing phases. Individual requesting information must identify themselves and their relationship to the individual upon whom the record information is being requested. Individual other than the individual of record must specify what information is requested and the purpose for which it would be used if disclosed. Personnel office official determines if request is reasonable and consistent with provisions of the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a). In order to prevent unauthorized modifications of records contents, original records documents may only be reviewed in the presence of a witness designated by the Personnel Office.

Physical access, that is the ability to obtain the record, is limited to:

Personnel office officials.

Office of Personnel Management officials.

Data processing officials.

Supervisors for those records for which they are authorized to maintain.

Security/Laws Enforcement personnel who access APCAPS information through computer terminals (used as control for the integrity of information in S161.30 DLA–T and S161.50 DLA–T) have been cleared and must have an official need-to-know. The information accessed from APCAPS is limited to the items and uses under Routine Uses and is password protected in the automated system.

Responsible officials are granted temporary custody of an original record in order to monitor the review of the record by the individual to whom it pertains, when the individual is geographically remote from the personnel office.

RETENTION AND DISPOSAL:

Records which are filed in the Official personnel Folder (OPF) are retained in the personnel office until the employee leaves the agency. At that time the permanent portion of the OPF is transferred to the gaining Federal agency and temporary OPF records are destroyed by shredding or burning. Copies of records authorized to be maintained by supervisors or other operating offices are destroyed by shredding or burning when the employee leaves the agency. Operating records maintained within the Civilian Personnel Office may be retained up to three years, as needed. When no longer needed, they may be destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Staff Director, Personnel, HQ DLA and Directors of Civilian Personnel at DCSC, DPDS, DESC, DGSC, DPSC, DDMT, DDOU, DDTC, DDMP, DASC, DCASR Atlanta, DCASR Boston, DCASR Chicago, DCASR Los Angeles, DSCAR New York, DCASR Cleveland, DCASR Dallas, or DCASR St. Louis. See DLA directory for mailing addresses.

NOTIFICATION PROCEDURES:

Written or personal requests may be directed to the System Manager at the activity where the record is maintained. Individuals must provide name (last, first, middle initial) and SSN in order to determine whether or not the system contains a record about them. With a written request, individual must provide a return address. For personal visits, the individual should be able to provide some acceptable identification, such as employing office identification card.

RECORD ACCESS PROCEDURES:

Written requests are required. The request is to contain the name of the individual (last, first, middle initial), SSAN, return mailing address, telephone number where individual can be reached during the day, and a signed statement certifying that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000. Complete records are maintained only on magnetic tapes or discs and are not available for access by personal visits.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Agency supervisors and administrative personnel, medical officials, previous federal employers, U.S. Office of Personnel Management. Applications and forms completed by individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S434.87DLA–C

SYSTEM NAME:

Debt Records for Individuals.

SYSTEM LOCATION:

Primary System: Accounting and Finance Division, Finance Systems Branch, Headquarters, Defense Logistics Agency (HQ DLA).

Secondary System: DLA Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including members of the general public, current and former civilian employees and military personnel, who are indebted to the DLA. Also included are those indivduals who are indebted to other Federal agencies and for whom DLA has assumed collection responsibility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative reports with supporting documentation of individual's financial condition, such as pay, grade, salary, or financial documents furnished by individual, personnel actions and requests from the individuals for waiver of indebtedness.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 951–953, "Federal Claims Collection Act of 1966"; Pub. L. 90–616; Pub. L. 92–453.

PURPOSE(S):

Information is used to collect monies owed the United States Government. Information is maintained to support case files; financial statements provide an understanding of individuals' financial condition with respect to request for deferment of payment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

If debtors do not enter into satisfactory payment arrangements or demonstrate a legitimate dispute within a specific period, the debt may be reported to a commercial credit bureau or consumer reporting agency.

Case files on uncollectible debts are forwarded to the U.S. General Accounting Office, Department of Justice, or a United States Attorney for further collection action.

See also blanket routine uses set forth above.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Agc, 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:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Files are located in the Finance Systems Branch, Accounting Finance Division Office of the Comptroller, HQ DLA. Access is limited to personnel of the Division except in those instances where other personnel may have an official requirement for the files, such as the General Counsel, DLA.

RETENTION AND DISPOSAL:

Records are destroyed ten years after all aspects of the case are closed. Collected in full claims are retained for six months and then destroyed. Claims terminated, compromised or waived are retained for three years and subsequently retired to Federal Records Center, held for remaining years and destroyed. Claims settled by U.S. General Accounting Office, retained one year after settlement and retired to Federal Records Center, held for remaining years and retired.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Chief, Finance Systems Branch, Accounting and Finance Division, Office of Comptroller, HQ DLA.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Official mailing address is in the DLA Directory. Written requests from individual should contain their full name, current address and telephone number. For personal visits, the individual should be able to provide acceptable identification, such as an employee badge or driver's license, etc.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Records obtained from Primary Level Field Activities (disbursing offices and/or personnel officer) in the form of copies of official government documents. Records also obtained from other Federal agencies, financial institutions, members of the general public and from the individual concerned. Accuracy of such records will be verified, as necessary, by requesting sworn or notarized statements, matching the various records and by comparison with official government records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Nonappropriated Fund (NAF) Membership Records.

SYSTEM LOCATION:

Military at Defense Construction Supply Center (DCSC), Defense Electronics Supply Center (DESC), Defense General Supply Center (DGSC), Defense Personnel Support Center (DPSC), Defense Depot Ogden (DDOU), and Defense Depot Tracy (DDTC). Community Club at Defense Depot Memphis (DDMT).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the NAF active/retired military and civilians.

CATEGORIES OF RECORDS IN THE SYSTEM:

Daily Status Report on VOQ, Pool and Swimming Class Registrations, and Liability Agreement between activity and participants. Record contains the member's name, rank, social security number, spouse's name, birthdate, and home/office telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 &302.

PURPOSE(S):

The records provide current listings of club memberships. They are used by the manager of the fund to determine eligibility for membership, mailing NAF activity notices, billing for dues and charges, indicating payment or non-payment of dues, membership card number, to register applicants, maintain records for future classes and in cases of emergency. The record could be used by the Council to terminate membership for nonpayment of dues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card files and filing cabinets. The records may also be automated.

RETRIEVABILITY:

Filed alphabetically by last name.

SAFEGUARDS:

Maintained in areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Destroy one year after member departs, after auditing or after purpose has been served.

SYSTEM MANAGER(S) AND ADDRESS(ES):

The manager of the NAF at DCSC, DESC, DGSC, DPSC, DDMT, DDOU, DDTC.

NOTIFICATION PROCEDURES:

Contact the System Manager by signing a request for the data or personal visit with identification.

RECORD ACCESS PROCEDURES:

Contact the system Manager. Official mailing addresses of the System Managers are in the DLA Directory.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Assignment orders, identification cards, and financial records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S493.10DLA-K

SYSTEM NAME:

Official Personnel Folders for Non-Appropriated Fund Employees.

SYSTEM LOCATION:

Geographically and organizationally decentralized to the Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs) which employ nonapproriated fund employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of nonappropriated fund (NAF) instrumentalities of DLA and former employees of such activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Folders containing various forms and records pertaining to the selection and appointment of NAF employees, personnel actions and other records originating during an employee's service and records pertaining to the employee's separation, classification, training, adverse or disciplinary actions, and other employment related forms and documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 & 302; 10 U.S.C. 136.

PURPOSE(S):

The information is collected and maintained to provide personnel officials and supervisory officials with information on which to base employment decisions affecting employees. It also provides a record of the employee's employment. The use of the record is restricted to official personnel administration uses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information is also used for answering inquiries from credit sources or other oustide sources such as prospective employers when appropriate and requested.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by employee name.

SAFEGUARDS:

Maintained in locked filing cabinets. Direct access to the files is limited to civilian personnel office employees and to supervisors and others who are identified as having a specific and legitimate need.

RETENTION AND DISPOSAL:

Folders are maintained for the duration of the employee's employment. They are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118, 180 days after separation.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Civilian Personnel Officers (CPOs) of DLA PLFAs where there are NAF employees.

NOTIFICATION PROCEDURES:

Request for information from an employee about himself or herself should be forwarded to the System Manager at the PLFA where the employment occurred, and contain requester's full name and location of organization where employed. The requester may visit the Office of Civilian Personnel of the appropriate PLFA to obtain information on whether the system contains records pertaining to him or her.

RECORD ACCESS PROCEDURES:

Individuals should contact the System Manager. Official mailing addresses are in the DLA Directory. Written requests should include requester's full name, job title and name of organization where employed. For personal visits employee should be able to provide some acceptable identification such as driver's license or employee identification badge.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information contained in the folder is obtained from the employee's previous employer, educational institution, trade associations, references and others who would have knowledge of the employee's skills or employment bccharacteristics and papers originating with the activity during the employee's work history.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S690.10DLA-W

SYSTEM NAME:

Individual Vehicle Operators File.

SYSTEM LOCATION:

Decentralized: At all Primary Level Field Activities (PLFAs) which issue vehicle operator's Identification Cards (I.D.): Heads of PLAFAs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons for whom Daefense Logistics Agency (DLA) has issued permits to operate motor vehicles or equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for identification cards which may include personal data and the following: State and number of currently valid license; list of arrests or summonses for violation of motor vehicle laws (excluding parking violations) and convictions, if any; suspensions or vevocations of his state license or identification card within the past five years; and any motor vehicle accidents within the past five years. Standard form 47 and other related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 471; Federal Property and Administrative Services Act of 1949, as amended, Federal Personnel Manual, Chapter 930.

PURPOSE(S)

Records are maintained and used by DLA officials to determine an individual's qualifications and fitness to operate government vehicles and/or equipment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Furnished to local, state, and federal law enforcement agencies and courts for use during investigations and court proceedings.

See also blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name and Social Security Number.

SAFEGUARDS:

Records are accessible only to DLA officials.

RETENTION AND DISPOSAL:

Records are destroyed 3 years after the individual's termination or transfer or after cancellation of authorization.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Heads of PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and name of DLA activity at which licensing occurred, or if individual is or was a DLA employee, name of employing activity is also required.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Managers are in the DLA Directory. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified from his file.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

State driver's licenses, Standard Forms 47 and 46, DD Forms 1360, Motor Vehicle Operator Qualifications and Record of Licensing, Examination and Performance; DLA Forms 1723, Application/Record for U.S. Government Motor Vehicle Operator's Identification Cards (SF–46); court records, supervisors notes and comments and related documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S810.50DLA–P–1

SYSTEM NAME:

Contracting Officer Files.

SYSTEM LOCATION:

Director of Procurement, Headquarters Defense Logistics Agency (HQ DLA) and Heads of DLA Primary Level Field Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All present and former contracting officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contracting Officer Certificate of Appointments; Contracting Officer Appointment Documentation Sheet (contains information on education, training and experience) and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2302; Defense Acquisition Regulation 1–405–2(b) and Defense Logistics Procurement Regulation 1–405.2(b).

PURPOSE(S):

DLA Headquarters—Provide a current profile of each contracting officers.

Field Activities—Necessary to maintain an active, centralized control over the issuance of contracting officer warrants. This file is a registry for the quantity of warrants and their distribution. The information is used by the members of the Contracting Officer Review Board, at activities where they exist, to perform their function of advising and recommending to the commander the issuance or revocation of warrants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses listed above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and loose leaf binders.

RETRIEVABILITY:

Filed by organizational activity and alphabetically by last name of contracting officer.

SAFEGUARDS:

Records are maintained in an area accessible to Office of Procurement Policy personnel.

RETENTION AND DISPOSAL:

Documents relating to and reflecting the designation of Contracting Officers and terminations of such designations (Designating Office—Destroy 6 years after termination of appointment. Others—Destroy upon termination of appointment).

SYSTEM MANAGER(S) AND ADDRESS(ES):

Executive Director, Directorate of Procurement DLA and Heads of PLFAs.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and name of DLA activity at which employed.

RECORD ACCESS PROCEDURES:

Official mailing addresses of System Manager are in the DLA Directory. Requests should contain the full name, current address and telephone number of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is driver's license, or DLA identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting records contents may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, Contracting Officer Review Board.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S850.10DLA–Q 1

SYSTEM NAME:

Quality Assurance Activity Certification Report.

SYSTEM LOCATION:

Primary System—Computer tape in the library of each Defense Contract Administration Services Region (DCASR).

Decentralized segments-Print-outs of all or part of this record may be maintained by the DCASR Quality Assurance Directorate, Defense Contract Administration Services District (DCAS), Defense Contract Administration Services Office (DSASO) where individual is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DCASR personnel involved in Procurement Quality Assurance (PQA) functions at each DCASR.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records and printouts containing name, grade and step, organization assignment, type of position, length of service information, certifications awarded, technical courses completed, courses for which the individual has been nominated and special qualifications as appropriate.

The file is created and maintained during the employee tenture in DCASR Quality Assurance and is deleted when his/her employment is terminated or upon transfer to another government agency. Changes are made as courses are completed or specific goals are met requiring a file update.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4103.

PURPOSE(S):

Information is maintained for purposes of determining trading costs, qualifications for certification in various commodity fields and records of those certified in various commodity fields. The information is used by the first line supervisor in determining the need for training consistent with the individual's past experience and the current goals or needs of the DCASR organization.

The DCASR Training Coordinator uses the information in summary form to justify the need and priority for training

Individual data is used only at the DCASR.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape in the computer tape library and print-outs at the DCASRS.

RETRIEVABILITY:

Filed by person code assigned to each individual.

SAFEGUARDS:

Records are maintained in areas accessible only to DCASR personnel.

RETENTION AND DISPOSAL:

Records are destroyed after two years.

SYSTEM MANAGER(S) AND ADDRESS(ES):

DCAS Quality Assurance Staff Development Office (DQADO).

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name and person code if known.

RECORD ACCESS PROCEDURE:

Official mailing addresses are in the DLA Directory. Written requests for information should contain the full name, person code and telephone number of the individual. For personal visits, individuals should have their DLA identification cards. The system provides a report of data by individual. A copy of the report is available to the individual through his supervisor. When a change/update has been made to the compute file, an updated version of the individual file is distributed to the individual, the appropriate supervisor and the training coordinator.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisor, college and technical school staffs for course contents and government training school personnel and record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S850.10DLA-Q 2

SYSTEM NAME:

Monthly Quality Assurance Activity Report by Person.

SYSTEM LOCATION:

Primary system—Computer tape in the tape library of each Defense Contract Administration Service Region (DCASR).

Decentralized segments—print-outs of all or part of this record may be maintained by the DCASR Quality Assurance Directorate, Defense Contract Administration Services District (DCASD), Defense Contract Administration Services Office (DCASO), where the individual is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Quality Assurance personal performing PQA functions at contractor facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records and printouts reflecting of hours devoted by individuals performing Procurement Quality Assurance (PQA) functions in the contractor's plant. Record may include specific categories of effort in PQA as well as count of actions, contract count and dollar value of contracts received, completed and shipments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4103.

PURPOSE(S):

The information is used by the first line supervisor to determine how direct labor (individual) effort is distributed for the purpose of evaluating mission effectiveness and performance. The individual data is used only within the DCASR and its subordinate activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape in the computer tape library, printed copies in the DCASR, District, DCASO offices.

RETRIEVABILITY:

Printed reports may be filed by person code under the Division, Branch and Section to which facilities or personnel are assigned.

SAFEGUARDS:

Records are maintained in areas accessible only to DCASR personnel.

RETENTION AND DISPOSAL:

Destroy records after two years.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Plans and Systems Mgmt Division (DLA-QR).

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager. Individual must provide full name, person code, division and branch assignment.

RECORD ACCESS PROCEDURES:

Official mailing addresses are in the DLA Directory. Written requests for information should contain the full name, person code and telephone number of the individual. For personal visits individuals should have their DLA identification card.

The system provides for a monthly report in summary form by individual of all data/information reported during the month. The individual normally receives a copy of this data through supervisory channels.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S866.15DPSC

SYSTEM NAME:

Manufacturing Payroll System; Weekly Piece Work.

SYSTEM LOCATION:

Defense Personnel Support Center (DPSC), Philadelphia, PA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian personnel who have been paid by the Manufacturing Payroll System.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports are maintained that contain all the data which affect an employee's pay, deductions, employer contributions, leave and retirement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Ch. 53, "Pay Rates & Systems"; 10 U.S.C. 136.

PURPOSE(S):

Information is maintained for purposes of affecting the weekly pay. Information is used by Agency supervisors and managers—to determine leave usage, manpower allocations and labor distribution.

Payroll office—to compute and control payroll.

Personnel office—to determine leave usage and changes that affect an employee's pay.

Security office—to determine location of employees.

Disbursing office—to determine the distribution of checks and bonds.

Officials designated by the Commander, DPSC—to perform law enforcement, safety, and vehicle registration/parking duties. Only the following information will be accessed and used: name, address, date of birth, office phone number, directorate and office where individual assigned, category (military or civilian), and shift number. This information will be used as a control to ensure the integrity of information in systems of records S161.30 DLA–T and S161.50 DLA–T. The information will also be used to facilitate the audit of such files.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used by:

Financial Institutions—to determine disposition of net pay allotments of pay.

Treasury Department—to determine registration of bonds and federal tax allocation.

Unions, charities, and insurance organizations to determine participation in these organizations.

Office of Personnel Management to determine status of employee and for disposition of retirement records.

State and local taxing authorities—to determine tax liability.

Non-government organizations—to verify employment and credit data furnished to financial institutions by employee.

Bureau of Employment Compensation—to process employee disability claims.

State employment offices—to submit data for unemployment compensation.

Local courts—to determine disposition of pay withheld for garnishment of wages.

See also blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tap, disc pack, computer paper printouts, paper records in file folders.

RETRIEVABILITY:

Records are maintained in alphabetical and employee number order.

SAFEGUARDS:

Access to mechanical records is limited to authorized DPSC data systems personnel. All other records are maintained in areas accessible only to office personnel. Security/Law Enforcement personnel who access this information through computer terminals (used as control for the integrity of information in Systems S161.30 DLA–T and S161.50 DLA–T) have been cleared and must have an official need-to-know. Furthermore, the information accessed from this system is limited to the items and uses under "Purpose(s)" and is password protected in the Automated System.

RETENTION AND DISPOSAL:

Records are retained 18 months to 3 years after their active termination of employment.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Accounting and Finance Division, Office of Comptroller, DPSC.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Written requests must contain the full name and Social Security Number of the employee. Employees making a personal request must present identification, i.e., employee badge, driver's license, etc. Official mailing addresses are in the DLA Directory.

CONTESTING RECORD PROCEDURES:

The DLA rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, civilian personnel offices, financial institutions, local courts, other govenment agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Defense Logistics Agency Official Directory of Mailing Addresses

Headquarters, Defense Logistics Agency

Headquarters, Defense Logistics Agency, Cameron Station, Alexandria, Virginia 22314.

Staff Director for Congressional Affairs.

Staff Director for Public Affairs.

Assistant Director, General Counsel, Policy and Plans.

Assistant Director for Telecommunications and Information Systems.

Comptroller.

Command Security officer.

Staff Director, Administration.

Staff Director, Personnel.

Staff Director for Installation Services and Environmental Protection.

Staff Director, Small and Disadvantaged Business Utilization.

Executive Director, Contracting.

Executive Director, Supply Operations.

Executive Director, Technical and Logistics Services.

Executive Director, Contract Management.

Executive Director, Quality Assurance.

Defense Logistics Agency Primary Level Field Activities (Alphabetically by State)

California

Defense Contract Administration Services Region, Los Angeles, 11099 South La Cienega Blvd., Los Angeles, California 90045.

Defense Depot Tracy, S. Chrisman Road, Tracy, California 95376.

Georgia

Defense Contract Administration Service Region, Atlanta, 805 Walker Street, Marietta, Georgia 30060.

Illinois

Defense Contract Administration Services Region, Chicago, O'Hare International Airport, 6400 North Mannheim road, P.O. Box 66475, Chicago, Illinois 60666.

Massachusetts

Defense Contract Administration Services Region, Boston, 666 Summer Street, Boston, Massachusetts 02210.

Michigan

Defense Logistics Service Center Federal Center, Battle Creek, Michigan 49016.

Defense Property Disposal Service Federal Center, Battle Creek, Michigan 49016.

Missouri

Defense Contract Administration Services Region, St. Louis, 1136 Washington Avenue, St. Louis, Missouri 63101.

New York

Defense Contract Administration Services Region, New York, 201 Varick Street, New York, New York 10014.

Ohio

Defense Contract Administration Services Region, Cleveland, Anthony J. Celebreezze Federal Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

Defense Construction Supply Center, Columbus, Ohio 43215.

Defense Logistics Agency Systems Automation Center, P.O. Box 1605, Columbus, Ohio 43216.

Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444.

Defense Automtic Addressing System Office, Gentile Air Force Station, Dayton, Ohio 45444.

Pennsylvania

Defense Depot Mechanicsburg, Mechanicsburg, Pennsylvania 17055.

Defense Contract Administration Services Region, Philadelphia, 2800 South 20th Street, Philadelphia, Pennsylvania 19101.

Defense Industrial Supply Center, 700 Robbins Avenue, Philadelphia, Pennsylvania, 19111.

Defense Personnel Support Center, 2800 South 20th Street, Philadelphia, Pennsylvania, 19101.

Tennessee

Defense Depot Memphis, 2163 Airways Boulevard, Memphis, Tennessee 38114.

Defense Industrial Plant Equipment Center, Memphis, Tennessee 38114.

Texas

Defense Contract Administration Services Region, Dallas, 500 South Ervay Street, Dallas, Texas 75201.

Utah

Defense Depot Ogden, Ogden, Utah 84407.

Virginia

Defense Technical Information Center, Cameron Station, Alexandria, Virginia 22314.

Defense Logistics Agency Administrative Support Center, Cameron Station, Alexandria, Virginia 22314.

Defense General Supply Center, Richmond, Virginia 23297.

[FR Doc. 84-20097 Filed 7-31-84; 8:45 am]

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federal register

Wednesday
August 1, 1984

Part III

Department of Health and Human Services

Office of Human Development Services

Announcement of Availability of FY 1985 and 1986 Competitive Financial Assistance for Projects To Promote Social and Economic Self-Sufficiency for Native Americans; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement 13612-851]

Announcement of Availability of Fiscal Year 1985 and 1986 Competitive Financial Assistance for Projects To Promote Social and Economic Self-Sufficiency for Native Americans

AGENCY: Office of Human Development Services, DHHS.

ACTION: Program announcement.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for competitive financial assistance under section 803 of the Native American Programs Act of 1974, Pub. L. 93–644, as amended. Regulations covering this program are published in the Code of Fedreal Regulations in 45 CFR Part 1336.

DATES: The closing dates for receipt of applications are October 10, 1984, February 28, 1985, and June 30, 1985.

FOR FURTHER INFORMATION: Applicants who wish information regarding this program announcement may contact Anita Wright (202–245–730) or Tom Battiste (202–245–7727), ANA, Human Development Services, Department of Health and Human Services, 330 Independence Avenue, SW., Washington, DC 20201

ANA Mission

The purpose of the Administration for Native Americans is to promote economic and social self-sufficiency for American Indians, Alaska Natives, and Native Hawaiians. In this context, self-sufficiency is the level of development and degree to which a Native American community can provide for the needs of its community members and pursue its own social and economic goals.

ANA Program Goals

ANA has three program goals:

1. Governance

To promote the development or strengthening of tribal governments and native American institutions and local leadership to assure local control and decision-making over all resources.

2. Economic Development

To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on welfare services.

3. Social Development

To support local access to, and coordination of, services and programs which safeguard the health and well-being of Native Americans and which are essential to a thriving and self-sufficient community.

ANA provides financial assistance to public and private non-profit organizations including Indian Tribes, urban Indian centers, Alaska Native villages, Native Hawaiian organizations, rural off-reservation groups, and other Native American organizations for the development and implementation of social and economic development strategies that promote self-sufficiency. These projects are expected to result in improved social and economic conditions of Native Americans within their communities and to increase the effectiveness of Indian Tribes and Native American organizations in meeting their economic and social goals.

The local community has the primary responsibility for determining its own needs and priorities and for planning and implementing its own programs. The local community is in the position to decide on the best approach to pursuing social and economic self-sufficiency.

Purpose of This Program Announcement

The purpose of this program announcement is to announce the availability of assistance to promote self-sufficiency for Native Americans through support of local social and economic development projects.

Proposed projects will be reviewed on a competitive basis against the evaluation criteria identified in this announcement.

Program Priority and Expected Outcomes

The ANA program priority is to fund projects that will make the greatest impact in promoting social and economic self-sufficiency for Native Americans. The applicant's proposal must clearly identify in measurable terms the expected results of the project and the positive impact on the community. ANA encourages applicants to consider innovative approaches to addressing the social and economic conditions in the community. Some examples of the types of measures and results expected from the ANA-supported projects are the following:

Governance—ANA Goal No. 1

- Increase in number of programs operated by the Indian Tribe that were previously run by Federal employees.
- Tribal commercial codes enacted to control commerce in Indian country and to promote an environment conducive to economic development.
- Adoption codes enacted by the Tribe separately or as part of a comprehensive Tribal children's code.
- Child abuse and neglect reporting code enacted by the Tribe separately or as part of a comprehensive children's code.
- Environmental protection codes enacted.
- Taxation codes enacted and revenue generated to cover some of the costs of Tribal government operations.
- Energy development codes enacted to protect the environment, promote energy development and the socio-economic growth of the local economy.
- Implementation of a merit employment personnel system to provide a stable, efficient and effective Tribal civil service system.
- Increase in the ratio of Tribal employees to Federal employees providing services to Indians.
- Cooperative Tribal/State agreements executed in new areas of mutual support and benefit.
- Increase in Native American representation on city, county, and/or State advisory boards or commissions that have influence in allocating public resources and planning public services.
- Research, documentation, and/or presentation of evidence to support claim for recognition as an Indian Tribe or to clarify jurisdictional status as a governmental entity.

Economic Development—ANA Goal No. 2

An increase in the:

- Number of business starts and expanded manufacturing trade and retail efforts initiated.
- Number of new agricultural and mining efforts initiated.
- Number of Native American owned and operated businesses established or expanded.
- Number of non-Indian owned businesses established a reservation.
- Amount of revenue generated from energy development.
- Amount of revenue generated from business and agricultural enterprises.
- Number of urban Indian business enterprises initiated.
- Number of urban Indian economic businesses developed or expanded.
- Federal housing units transferred from Federal control to Indian Tribal management and used for rent or sale to include, but not limited to, housing currently operated by the Bureau of Indian Affairs and the Indian Health Service serving Federal employees on Indian reservations.

- Increase in home ownership in a community by Native Americans.
- Number of housing units constructed, renovated and/or sold.
- Number of jobs resulting from an ANA grant project.
- Number of placements by the enactment of Tribal employment rights ordinances (TERO).
- Establishment under Indian sponsorship of a for-profit health care system for Indians and non-Indians including outpatient and hospital care through free-for-service, insurance reimbursements and other third-party claims and contracts for Indian health services operating at the local level.

Social Development—ANA Goal No. 3

- Assuming local control of planning and delivering social services in Native American communities.
- Licenses obtained by Native American urban organizations to provide social or other services for State and local governments.
- Increase of Native American volunteers working in the community.
- Increase in employer-provided social services, such as day care and counseling.
- New service programs established with ANA funds and funded for continued operation by local communities or the private sector.
- Reduction in the number of out-of-home placements of Native American children.
- Increase in Native American children adopted or placed in permanent homes who would otherwise be in foster care or institutions.
- Increase in Indian children returning home from foster homes.
- Increase in number of developmentally disabled Native American children served by appropriate agencies.
- Decrease in General Assistance caseload and Aid to Families with Dependent Children caseload.
- Decrease in Native American suicides.
- Decrease in Native American child abuse and neglect incidences as a result of improved social conditions such as employment and improved social services in the community.
- Decrease of fetal alcohol syndrome.
- Urban Indian organizations establishing formal linkages with local governments.

There are other definitive results, benefits, and impacts that can accrue from a project. The major emphasis is the use of ANA resources to create definite, measurable, and positive results or impact in the community by the end of the Project period.

Note.—ANA will reject applications which request funding for on-going direct service delivery. Projects must be developmental in nature, be completed or self-sustaining at the end of the project period, or be maintained by other ANA resources, and result in the improved well-being of the members of the community.

Cooperative Management Initiative

The Cooperative Management Initiative (CMI) is an Office of Human Development Services' (HDS) management initiative to strengthen local coordination and enhance the efficiency of HDS Indian programs: ANA social and economic development grants, ACYF Head Start grants and AoA Title VI grants. The purpose of local cooperative management of Federal programs is to reduce administrative burden and duplicative reporting requirements which Indian Tribes encounter when they administer more than one HDS grant. Additionally, CMI facilitates management improvements and joint use of facilities at the Tribal level.

All Indian Tribes which have two or more HDS grants are eligible to participate in this cooperative effort. Currently participating Tribes and those Tribes interested in joining CMI should state their intent in the narrative portion of their application. For further information on CMI, contact: Bernice Harris, CMI Coordinator, Office of Human Development Services, Department of Health and Human Services, 330 Independence Avenue SW., Washington, DC 20201: (202) 245–7730.

Eligible Applicants

The following organizations which are *not* current grantees of ANA are eligible to apply for a grant award under this announcement: Federally recognized Indian Tribes; consortia of Indian Tribes; non-Federally recognized Tribes; non-profit multi-purpose Indian organizations; urban Indian centers; and non-profit Native Hawaiian organizations.

Fiscal Year 1984 grantees of ANA, with the exception of Native Alaskan grantees, whose *project period* terminates in Fiscal Year 1985, are also eligible to apply. (The Project Period is noted in Block 7 of the "Notice of Financial Assistance Awarded".)

Alaska Native villages and Regional Alaska Native non-profit corporations are not eligible under this program announcement because a separate program announcement was published exclusively for Fiscal Years 1984 and 1985 funding of Alaska Native Projects: Program Announcement No. 13612–833, published in the **Federal Register** on May 16, 1983 (48 FR 22126–22128).

For Fiscal Year 1986, ANA plans to publish another competitive program announcement exclusively for Alaskan Native projects.

Individual consortia members may apply for direct funding from ANA, even though their consortium organization is an ANA grantee, providing the projects are different from those funded by ANA to the consortium and the application indicates that the consortium organization has been notified of the individual member's intent to apply for a grant award from ANA. The consortium must recognize that if one of its members receives direct funding from ANA, the grant award to the consortium may be renegotiated.

Available Funds

ANA excepts to award approximately $4 million in Financial Assistance Section 803 funds for each of the three closing dates under this program announcement, a total of $12 million. It is anticipated that a total of 75 grants will be awarded under this program announcement.

Applications for projects of one, two, or three years duration may be submitted. Applicants proposing projects for more than one year must submit full applications on all program activities for the entire project period. that is, for years one, two and three, not just for the first year. The budget period for each grant award will be for twelve (12) months. Funding after the first year of a multi-year project will depend upon grantee's progress in achieving the objectives of the project according to the approved work plan, the availability of funds, and compliance with the Native American Programs regulations.

For projects approved for more than one year, only minimal application information for subsequent year funds will be required. Specific guidance will be provided to those grantee to whom this applies in Fiscal Year 1986.

Note.—ANA will make only one grant award to a tribe or organization under this program announcement.

Grantee Share of Project

Grantees must provide at least 20 percent of the total approved cost of the project, which may be cash or in-kind. The total approved cost of the project is the sum of the Federal Share and the non-Federal Share. A budget detailing applicant's non-Federal Share in the project must be included in the application.

The Application Process

Availability of Application Forms.

In order to be considered for a grant under this program announcement, and application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kits containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Attn: Mrs. Casandra Byrd, (202) 245–7727. Attention: No. 13612–851.

Application Submission.

One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit. The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Program rules and regulations.

Application Consideration

The Commissioner of ANA determines the final action to be aken with respect to each grant application received under this announcement.

- Incomplete applications and applications which do not conform to this announcement will not be accepted for review. Applicants will be notified in writing accordingly.
- Complete applications which conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process against the published criteria. The results of this review will assist the Commissioner in making final funding decisions.
- The Commissioner's decision also takes into account the comments of the ANA staff and other interested parties.
- The Commissioner makes grant awards consistent with: the purpose of the Native American Programs Act; The ANA regulations; this program announcement; and the limits of the announced available funds.
- When the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing. Successful applicants are notified through an official Notice of Financial Assistance Awarded. This Financial Assistance Notice states the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period, the project period, and the amount of non-Federal share grantee participation.

Criteria for Review and Evaluation

Applications which conform to all the requirements of this program announcement will be evaluated against the following criteria:

(1) The proposed project, when completed, will show a measurable increase in the social and economic self-sufficiency of a specific Tribe or community. The benefits or impact expected in the community, as a result of achieving the project objectives, are quantifiable, measurable, and do not depend upon on-going support from ANA. See Section labeled "Program Priority and Expected Outcomes" for examples of quantifiable and measurable impact and benefits. (25 Points)

(2) The application specifies long-range community goals and project priorities, identifies a well-defined strategy and a sound methodology for achieving the project objectives and clearly identifies how improvements will be sustained at the end of ANA's funding. The goals, objectives, activities, and expected results relate to each other, are realistic, and are based on a locally developed social and economic development strategy. Specific evidence of the commitment of the local community and the support of the governing body are contained in the application, resource commitments for the proposed project from the community and applicant organization, cited reports or studies which support the feasibility of the proposed project. (20 Points)

(3) The proposed project objectives and activities identified in Part IV of the application are clearly defined, sufficiently detailed, in logical order, and provide a basis for project monitoring. (15 Points)

(4) The application presents a detailed budget specifically related to the work plan objectives in Part IV. It has complete explanations and justification of line items, including technical assistance. The budget cost is reasonable to the government in terms of the outcome and benefits expected. (10 Points)

(5) The application identifies by position or role all proposed key personnel, consultants and contractors. Their qualifications are demonstrated by the inclusion of resumes, position descriptions, and consultant and contractor capability statements. (15 Points)

(6) The management and administrative capabilities which are necessary to ensure accountability and to justify receipt of Federal funds are evident in the application. (5 Points).

(7) The application demonstrates the coordinated use of specific non-Federal and Federal resources (other than from ANA) as part of its strategy to move toward self-sufficiency through social and economic development during the project period. (10 Points)

Due Dates for Receipt of Applications

The closing dates for applications submitted in response to this program announcement are October 10, 1984, February 28, 1985, and June 30, 1985.

Mailed Applications

Applications mailed through the U.S. Postal Service or a commercial delivery service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or
2. Sent on or before the deadline date and received in time for submission to the review panel. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to obtain a legibly dated mailing receipt from the commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: July 11, 1984.

William Lynn Engles,

Commissioner, Administration for Native Americans.

Approved: July 25, 1984.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 84–20288 Filed 7–31–84; 8:45 am]

BILLING CODE 4130–01–M

federal register

Wednesday
August 1, 1984

Part IV

Environmental Protection Agency

40 CFR Parts 152 and 162
Pesticide Registration and Classification Procedures; Procedures To Ensure Protection of Data Submitters' Rights; Final Rule and Notification to Secretary of Agriculture

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152 and 162

[OPP-30076; FRL 2618-8]

Pesticide Programs; Pesticide Registration and Classification Procedures; Application Procedures To Ensure Protection of Data Submitters' Rights

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule describes methods that applicants for registration, amended registration, and reregistration of pesticides can use to comply with the provisions of FIFRA sec. 3(c)(1)(D) with respect to submission or citation of data. The rule establishes procedures intended to protect the economic interests of pesticide data submitters. At the same time, the rule gives applicants a wide choice of ways in which to comply with FIFRA sec. 3(c)(1)(D). These procedures are adopted following the publication of a proposed rule in the **Federal Register** of December 27, 1982 (47 FR 57624), an additional request for comments on several topics set forth in the notice extending the comment period, published in the **Federal Register** of March 30, 1983 (48 FR 13196), and recent Supreme Court decisions on data submitters' rights.

DATE: This rule becomes effective at the end of 60 calendar days of continuous session of Congress from the date of promulgation as provided in FIFRA sec. 25(a)(4). After that period has elapsed, the Agency will issue for publication in the **Federal Register** a notice announcing the effective date of this rule.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: OMB Control Nos. 2000-0012 and 2000-0468.

This preamble is organized according to the following outline:

I. Background

Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) authorizes EPA to regulate the sale, distribution, and use of pesticides in the United States. With certain minor exceptions, FIFRA requires that all pesticides must be registered by EPA before they may be sold or distributed in commerce. To obtain a registration, an applicant is required, among other things, to submit or cite data in support of his application. Specifically, FIFRA section 3(c)(1)(D) states that the application must contain "a full description of the tests made and results thereof . . . or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator . . ." Section 3(c)(1)(D), however, also imposes limitations on an applicant's right to cite data submitted by another person without the data submitter's permission (see Unit II.B of this preamble). The purpose of these limitations is to protect the economic interests of data submitters by preventing an applicant from relying on data submitted by another unless the applicant has first made an offer to pay reasonable compensation for the right—or in certain cases, unless the applicant has obtained permission—to cite the data.

These statutory provisions, as well as EPA's interpretation and implementation of them have been the subject of numerous lawsuits. A court decision issued in January 1983 led EPA to reconsider its previous interpretation of the relationship of FIFRA section 3(c)(1)(D) to other sections of FIFRA. A review of the Agency's previous interpretation, the court decisions, and subsequent developments will aid in understanding the rules which the Agency is currently promulgating to implement FIFRA section 3(c)(1)(D).

A. The 1978 Data Compensation Approach

In 1978, Congress extensively amended FIFRA section 3(c)(1)(D) and other sections to allow EPA to implement a new approach to registration of pesticides. Under that approach, EPA interpreted FIFRA section 3(c)(1)(D) to require an applicant to cite in support of his application any item of data which the Agency might review or use in deciding whether to register his product, *i.e.*, all relevant data in the Agency's files. In 1979, the Agency issued as an interim final rule its so-called "cite-all" regulation, published in the **Federal Register** of May 11, 1979 (44 FR 27932), and codified at 40 CFR 162.9-1 through 162.9-8, which embodied this interpretation of the Act. In order to cite data submitted by another, EPA required the applicant to extend an offer to pay reasonable compensation to the data submitter. The consequences of this requirement were far-reaching to applicants, since it required them to offer to pay compensation for an often substantial, but sometimes ill-defined body of data previously supplied by others.

Until 1983, EPA's registration program operated efficiently under that regulation. The regulation required most applicants to cite in their applications all relevant data previously submitted to EPA, regardless of the amount of their own data they provided with their applications. The regulations contained a limited exception, called the "alternate method," under which certain applicants seeking to register end-use products could comply with the data compensation regulations by submitting data they themselves had developed on their own products to satisfy each applicable data requirement. This alternate method was permitted because data on end use products would normally apply only to the product for

which the data were developed (or very closely similar products), and ordinarily would not be pertinent to the review of other products containing the same active ingredients. Moreover, data on the exact product formulation proposed for registration would allow the Agency to better judge the registrability of the product than would data on a similar formulation. See 40 CFR 162.9–8.

B. The Mobay Decision

Mobay Chemical Co. challenged the 1979 interim final regulations in court, claiming, among other things, that the cite-all regulations were procedurally deficient because they had not been promulgated in accordance with the requirements for notice and opportunity for comment in the Administrative Procedure Act. In June 1982, following an initial ruling in favor of the Agency at the district court level, the U.S. Court of Appeals for the Third Circuit held that the Agency had failed to follow required procedures in issuing the data compensation regulations. *Mobay Chemical Co.* v. *Gorsuch*, 682 F. 2d 419 (3d Cir. 1982). The court, therefore, declared the regulations invalid. The court stayed its order, however, to permit the Agency to repromulgate the rule. In response, on December 27, 1982, the Agency reproposed its 1979 cite-all regulations essentially unchanged with a 60-day comment period (47 FR 57624). The proposal's preamble contained an extensive discussion of, and request for comment on, possible alternatives to the cite-all procedures, specifically procedures which would provide a means for applicants to identify the specific data requirements for the proposed product and to cite or submit a specific study to meet each such requirement. Commenters were urged to address not only the methods by which such procedures would be implemented but also the means by which disputes arising under them could be resolved. 47 FR 57638–57640, 57645–57646.

C. The NACA Decision

In January 1983, a decision by the District Court for the District of Columbia (*National Agricultural Chemicals Association* v. *U.S. Environmental Protection Agency*, 554 F. Supp. 1209 (D.D.C. 1983) (*NACA*) rejected EPA's interpretation of the statute contained in the cite-all regulations, and held the 1979 regulations invalid insofar as they required an applicant to cite every study in the Agency's files relevant to the applicant's product. The district court enjoined EPA from requiring applicants to submit or cite more data than needed to meet the "statutory criteria for registration."

EPA's response to the *NACA* decision was (1) to discontinue requiring applicants to follow the cite-all regulations; (2) to allow applicants who did not wish to wait until new procedures were in place voluntarily to follow the "cite-all" regulations; and (3) to start development of procedures employing a selective method as an alternative to cite-all. The Agency extended the original comment period on its December 1982 proposal until May 6, 1983, as published in the **Federal Register** of March 30, 1983 (48 FR 13196). In extending the comment period, the Agency also specifically requested comment on each of the major issues related to the alternative procedures under development: (1) The means by which product specific data requirements should be identified, including the role of waivers of requirements; (2) the effect of "data gaps" in the Agency's files reflecting the fact that previous registrants have not yet complied with certain applicable requirements; (3) the question of whether and how a selective method would implement the mandatory data licensing provisions of section 3(c)(1)(D); and (4) the process by which disputes arising under such procedures should be resolved either before or after the issuance of registrations under them.

D. The Monsanto District Court Decision

While EPA was developing alternative procedures to respond to the *NACA* decision, another U.S. District Court ruled that FIFRA section 3(c)(1)(D) was unconstitutional and enjoined the Agency from implementing, in any way, FIFRA section 3(c)(1)(D). *Monsanto Co.* v. *Acting Administrator*, 564 F. Supp. 552 (E.D. Mo. 1983) (*Monsanto*).[1] The injunction immediately rendered the mandatory licensing scheme upon which the cite-all regulations depended inoperable, even on a voluntary basis. (The *NACA* decision had permitted the continued use of cite-all as long as it was not the only option available to applicants.) As a result, the Agency was effectively prohibited from permitting applicants to cite data in support of registration without the original submitter's permission. The Agency halted registration under the "voluntary cite-all" approach except in the very few cases where EPA could determine that only the applicant had submitted any relevant data. Moreover, the *Monsanto* injunction, coming as it did before the Agency was able to issue its alternative procedures even on an interim basis, left the Agency with no regulations that could legally be used to implement the data citation/submission requirements of FIFRA.

The combination of the *NACA* and *Monsanto* decisions, therefore, brought the registration process to a virtual halt. In the absence of a set of procedures to replace the cite-all regulations, EPA could not instruct applicants about the information they were required to provide in order to be registered, nor could the Agency efficiently determine whether an applicant had satisfied the statutory requirements for registration. The Agency's inability to issue new registrations prevented applicants from obtaining approval to market new, potentially safer and more effective products. In view of the time needed to obtain final resolution of the court challenges and to promulgate final regulations, and the urgent need to have some means for applicants to satisfy data requirements, EPA elected to issue interim alternative procedures and to permit applicants to use them immediately. On June 29, 1983, EPA issued PR Notice 83–4 (and 83–4A, containing several minor amendments). This notice was provided to all registrants and applicants, and a notice of availability of the PR Notice to the general public was published in the **Federal Register** of July 13, 1983 (48 FR 32012). That notice stated in part that the interim procedures "would remain in effect only until issuance of final, effective rules in the Agency's pending rulemaking proceeding to modify 40 CFR 162.9–1 through 162.9–8. See proposal at 47 FR 57635 (December 27, 1982); extension of comment period at 48 FR 13196 (March 30, 1983)."

The alternative procedures set out in the PR Notice are substantially similar to the "selective method" in this rule, except that this rule permits applicants to rely on data without the original submitter's permission. This selective method represents EPA's resolution of the issues identified for specific comment in the notice extending the comment period on the proposal which initiated this rulemaking. The "cite-all"

[1] Another district court later found unconstitutional the parts of section 3(c)(1)(D) which provided that disputes between data submitters and applicants about the amount of compensation owed can be resolved through binding, non-reviewable arbitration. *Union Carbide Agricultural Products, Co., Inc.* v. *Ruckelshaus*, 571 F. Supp. 117 (S.D. N.Y. 1983) (*Union Carbide*). The court enjoined EPA from "implementing any use of data" in which the amount of compensation due could be determined through arbitration. The *Union Carbide* decision and injunction did not prohibit any activity that was not also forbidden by the *Monsanto* injunction. Thus, as a practical matter, the issuance of the *Union Carbide* order had no immediate impact on EPA's registration program.

procedures established in the 1979 regulations (and contained in the December 27, 1982 proposal) have also been retained. Differences between this rule and the PR Notice are identified and discussed in Unit X of this preamble.

E. The Supreme Court Decisions in Monsanto and Union Carbide

On June 26, 1984, the United States Supreme Court decided EPA's appeal from the *Monsanto* decision. *Ruckelshaus* v. *Monsanto Co.*, 52 LW 4886. The Supreme Court's opinion upheld the constitutionality of the mandatory data licensing provisions of section 3(c)(1)(D) of FIFRA, and its order vacated the judgment of the district court. Shortly thereafter, on July 2, 1984, the Supreme Court ruled on EPA's appeal from the *Union Carbide* decision. In a decision without opinion, the Court vacated the judgment of the district court and remanded the case for further consideration in light of its *Monsanto* holding. *Ruckelshaus* v. *Union Carbide Agricultural Products Co.*, 52 LW 3928. The effect of these two Supreme Court decisions, therefore, was to remove the bar on EPA's implementation of the mandatory licensing provisions of section 3(c)(1)(D).

F. Promulgation of This Final Rule

Now that the Supreme Court has issued its decisions in *Monsanto* and *Union Carbide*, EPA has determined that it is appropriate to issue this final rule, which fully implements the mandatory data licensing provisions of FIFRA section 3(c)(1)(D) and culminates the rulemaking process initiated by the December 27, 1982, Notice of Proposed Rulemaking, 47 FR 57624. This rule provides two alternative systems by which applicants for registration actions may comply with the compensation requirements of section 3(c)(1)(D). One of these systems allows applicants to cite (and offer to pay for) all relevant data in EPA's files which are available for data licensing and for which submitters are entitled to compensation under section 3(c)(1)(D). This alternative is designated the "cite-all method." The other system provides a means by which an applicant can identify the data requirements that apply to his product and can selectively cite previously submitted data or submit new data to satisfy each applicable data requirement, instead of citing all relevant data in EPA files. This alternative is identified as the "selective method." This final rule, like the proposal, addresses the basic issues necessarily raised by any selective approach: How to identify the applicable data requirements, how applicants may satisfy each requirement, and how disputes between data submitters and applicants who rely on the selective method may be resolved. This final rule also contains procedural regulations to implement each of these approaches.

The December 1982 proposal set forth the details of the cite-all method, which the Agency then believed was the preferred means of implementing FIFRA section 3(c)(1)(D), and discussed necessary components of any section 3(c)(1)(D) approach, such as the types of registration applications which must comply with the data protection scheme. In addition, the proposal described in detail and solicited comment on two versions of the selective method approach, one submitted to the Agency by Rhone-Poulenc, Inc. (47 FR 57646) and the other contained in a bill (HR 5203) which had been passed by the House of Representatives (47 FR 57638–57641). Both the Rhone-Poulenc proposal and HR 5203 envisioned allowing an applicant to submit or cite only enough data to satisfy the minimum data requirements applicable to his product. The House bill's approach was broader, and spelled out in detail all the elements of the selective method. Under it, the application would include "a list of the applicable data requirements, a list of the data the applicant is submitting or citing to satisfy each such requirement, and a certification that the applicant is not precluded by" the requirement that the applicant either obtain the prior permission of the original data submitter (in the case of exclusive use data) or enter into appropriate cost-sharing arrangements. The House bill also set forth a mechanism for resolving disputes between applicants and data submitters which the rule promulgated today resembles. Key portions of that mechanism were set forth in the proposal.

The preamble quoted Rhone-Poulenc with regard to its proposal as follows:

> The principal difference between our proposal and the current cite-all regulation is that under our proposal a subsequent applicant relying entirely on its own data would no longer be blocked by the combined effect of the FIFRA exclusive use provision and the cite-all regulation from obtaining a registration or permit, and would no longer be required to offer to pay compensation to other registrants with similar data on file. However, under our proposal, as at present, no applicant could obtain the benefit of another registrant's data, rely on them, or cite them without full compliance with any exclusive use and data compensation provisions.

Rhone-Poulenc's proposal thus addressed primarily a subset of the HR 5203 approach, i.e., those situations where the applicant has developed a complete data set. Rhone-Poulenc also argued that EPA could by regulation establish dispute resolution procedures under the then-existing FIFRA that paralleled those in HR 5203.

The 1982 proposal also set forth, and sought comments on, correspondence urging the implementation of a selective method under the the existing law which EPA had received from the Secretary of Agriculture and the House Subcommittee on Department Operations, Research, and Foreign Agriculture of the Committee on Agriculture.

Timely comments on the proposal were received from the Pesticide Producers Association, four pesticide producing firms, and an environmental group, and are addressed in Unit XI of this preamble, Response to Comments. All of the industry commenters emphasized their support for the Rhone-Poulenc proposal or otherwise urged the adoption of a selective method of data support.

During the period alloted for comments on the December 1982 proposal, the *NACA* decision was announced. It required that EPA implement section 3(c)(1)(D) in a manner which assured the availability of a selective method of data support. In light of the fact that EPA could no longer require the use of the cite-all approach identified in the December 27 proposal as the preferred option, the Agency issued a notice, which was published in the **Federal Register** of March 30, 1983, which entended the period of comment on the December 1982 proposal. That notice specifically sought comments addressed to the alternative selective approach identified in the December 1982 proposal. Further, that Notice identified the issues related to each element of a selective method: (1) How to identify the data requirements for each application, including the treatment of waivers of such requirements in the section 3(c)(1)(D) context; (2) the effect of the failure of previous registrants of identical or substantially similar pesticide products to meet applicable data requirements (data gaps); (3) the extent to which applicants should be able to rely on data previously submitted by others to fill data requirements, and the mechanisms to be used; and (4) the means by which disputes over compliance and data submitters' rights should be resolved. The Agency received comments from the National Agricultural Clemicals

Association (NACA) and from three pesticide producers after the notice of extension of the comment period. NACA indicated that the Agency had been misinterpreting FIFRA in certain respects (See Unit XI of this preamble), while the three producers all expressed support for a selective method of complying with section 3(c)(1)(D) as mandated by the *NACA* decision. Those comments also are addressed in Unit XI of this preamble.

As a consequence of the *Monsanto* district court injunction, EPA decided to develop interim procedures for processing registration applications which assured that applicants could identify applicable data requirements and meet those requirements, either by selecting previously submitted data they had obtained permission to use or by submitting new data. The mechanics of those interim procedures are substantially similar to the selective method set forth in this final rule, except that the removal of the district court injunctions [2] permits the Agency to allow selection of previously submitted data without permission of the original data submitter, provided an offer to pay is made when required. Before the interim procedures were made effective, the Agency consulted with trade associations concerned with pesticides, individual pesticide companies, interested environmental groups, governmental agencies, and any other person expressing interest. Various participants in this development process returned reworked drafts, attended meetings with Agency representatives, and supplied correspondence detailing their opinions on the procedures. After EPA's consideration of all of these views, the interim procedures were implemented (see 48 FR 32012) and have been used for the past year.

EPA is now issuing its final rule concluding this administrative process and resolving the issues raised to date. The proposal documents raised as one of EPA's major concerns with the selective approach the administrative difficulties potentially associated with the resolution of disputes between data submitters and applicants. The proposal and extension notice expressly solicited comment on this basic approach to dispute resolution adopted in this rule—permitting exclusive use data submitters to petition for denial of a registration application and other data submitters to petition for cancellation of a registration upon an allegation that the registration applicant improperly relied on their submitted data or improperly avoided reliance on (and submission of the offer to pay for) their submitted data. As the preamble spells out in detail elsewhere, and as the commenters urged, EPA has determined that the methods of dispute resolution identified for comment in the proposal documents for this rule can be implemented satisfactorily under current law. Further, EPA's particular concerns about potential disputes involving exclusive use data submitters have benefitted from the exchange of drafts during the development of PR Notice 83–4. EPA now believes, based on the comments received and on discussions with data submitters during the development of PR Notice 83–4, that those concerns are adequately resolved by the provisions of this rule allowing for challenges to applications for pesticide products on which relevant exclusive use data have been submitted previously.

The proposal documents for this rule also solicited comments on the two other basic topics which must be dealt with in designing any selective data support scheme—how the data requirements are determined and how the applicant is to demonstrate compliance with those requirements. The final rule adopts the approach to determining data requirements suggested in the March 1983 notice, namely, to require reliance on the EPA regulations (40 CFR Part 158) establishing data requirements for registration. The rule permits applicants to demonstrate that they have met the requirements by any method which the statutory scheme allows—generating their own new data, citing their own previously submitted data, citing data previously submitted by others, relying on public literature, seeking a "waiver," or showing the existence of a "data gap." Specific comment on each of these latter means of complying with data requirements was also requested in the March 30 proposal.

This final rule, therefore, completes the data compensation rulemaking by implementing the already largely familiar procedures necessary to provide for both a cite-all and a selective method of supplying the required data to support applications for pesticide registration actions pursuant to the provisions of FIFRA section 3(c)(1)(D).

[2] The formal docketing of the Supreme Court's *Monsanto* and *Union Carbide* orders in the district courts may follow publication of this rule by a few days. However, this rule cannot become effective until after the 60-day congressional review period; therefore, its effective date clearly will follow the effective dates of the Supreme Court decisions.

II. The Statutory Scheme

A. Agency Review of Data

After reviewing the statute in detail in light of the *NACA* decision, the Agency concluded in 1983 that there is an important distinction in the statute between (1) EPA review under FIFRA section 3(c)(1)(D) to determine whether the applicant has satisfied the requirements that specify how an application must be supported by the submission or citation of data, and (2) EPA review of data to determine whether to approve a properly supported application on risk/benefit grounds.[3] EPA's review of applications is governed by sections 3(c)(5) and 3(c)(7) of the Act. Section 3(c)(5)(B) governs the first step in EPA's review of materials submitted in support of applications by stating that EPA may register a pesticide only if "its labeling and other material required to be submitted comply with the requirements of the Act." The "labeling and other material required to be submitted" consist of the various items listed in section 3(c)(1), one of which is "a full description of the tests made and the results thereof . . . , or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator." (Section 3(c)(1)(D).)

The types and amount of data an applicant must submit or cite to obtain a registration are specified in 40 CFR Part 158. That rule implements the requirement of FIFRA section 3(c)(2)(A) that EPA "publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide . . . ."

FIFRA section 3(c)(1)(D) imposes limitations on the extent to which an applicant may satisfy requirements by

[3] The Agency's previous interpretation, as set forth in the December 1982 proposal (47 FR 57638) was that these two functions arguably were indistinguishable, because the Agency's ability to review all relevant data in its files in order to make a risk/benefit decision depended on the applicant's supplying or citing all such data. The *NACA* court rejected this interpretation, saying (554 F. Supp. at 1211):

> While it is commendable that the EPA does not intend to limit its inquiries to the data submitted by applicants, the plain language of the statute does not support the EPA's conclusion that the applicants are required to provide all the information the EPA would like to review.

The Agency then reexamined the statute and developed its current interpretation. This interpretation was set forth in the preamble of the regulations concerning conditional registration (a parallel rulemaking also necessitated by the *Mobay* decision), see 48 FR 34000, 34002 col. 3 (July 26, 1983), and in PR Notice 83–4. Industry comments disagreeing somewhat with this interpretation and the Agency's response are discussed in Units II and XI of this preamble.

citing studies submitted by others. FIFRA section 3(c)(5)(B) states, in effect, that an application may not be approved unless the applicant has submitted a complete and properly supported application. Thus, section 3(c)(5)(B), together with sections 3(c)(1)(D) and 3 (c)(2)(A), defines the first step of EPA's review of applications.

Sections 3(c) (5) and (7) also require that, before a product may be registered, the Agency must make a second, risk/benefit determination: Either that the product and its uses will not cause unreasonable adverse effects on the environment (see sections 3(c)(5) (C) and (D) and 3(c)(7) (C)), or that use of the product will not significantly increase the risk of unreasonable adverse effects on the environment (see section 3(c)(7) (A) and (B)). Nothing in either FIFRA or the court decisions mentioned above limits the range of data which EPA may consider in making these risk/benefit decisions. To the contrary, the intent of Congress that the Agency review data other than those submitted by applicants is evident in several sections of the Act.

Under FIFRA section 2(bb), the term "unreasonable adverse effects on the environment" is defined to require a consideration of economic and social, as well as environmental, costs and benefits of use. This definition clearly contemplates that the Agency will examine information beyond that which applicants are required to provide. Moreover, FIFRA section 3(c)(2)(A) requires that the Administrator make available to the public after registration not only the "data called for in the registration statement," but also, "... . such other scientific information as he deems relevant to his decision." The "other secientific information" clearly refers to information distinct from that submitted by the applicant.

In sum, EPA must engage in two separate data review functions—one for the purpose of determining the sufficiency of the applicant's submissions under FIFRA section 3(c)(1)(D), the other for the purpose of evaluating the pesticide itself against the statutory risk/benefit criteria. In the latter review, EPA may consider any relevant data without regard to who submitted the data, for what purpose, or when the data were submitted. In contrast, very specific limitations apply to the Agency's consideration of data in the first review.

B. Protecting the Economic Interests of Data Submitters

FIFRA section 3(c)(1)(D), which is primarily concerned with protecting the economic interests of data submitters, limits the extent to which an applicant may reference another person's data to satisfy the Agency's data requirements. The Act does so in two ways: (1) For a pesticidal active ingredient never before registered (a "new chemical"), section 3(c)(1)(D)(i) grants the data submitter "exclusive use" of data he has generated in support of the first registration of a new chemical for a 10-year period after that registration; (2) for all other pesticides (and for new chemicals after the expiration of the 10-year exclusive use period), section 3(c)(1)(D)(ii) establishes a "mandatory licensing" scheme under which a data submitter's permission is not necessary to permit the citation of his post-1969 data by another applicant if the applicant has made an offer to pay compensation to the data submitter. The period of such compensation protection is 15 years after the submission of the data to the Agency. After the expiration of both of these time periods, the data may be cited freely by any applicant.

1. Exclusive Use Protection

The purpose of the exclusive use provision in FIFRA section 3(c)(1)(D)(i) is to encourage continued research and development of new, more effective, and safer pesticides by giving producers—who often devote many years and millions of dollars to developing a new pesticide—a period of protection against competition. Section 3(c)(1)(D)(i) achieves this purpose by prohibiting the Agency from allowing any subsequent applicant to cite "exclusive use" data in support of his application for registration without the express written authorization of the first registrant of the new chemical. Since the original registrant can withhold authorization to cite his data, he can make it quite difficult for subsequent applicants to obtain registration. Theoretically, a second applicant could obtain registration by independently developing the entire set of data required under FIFRA, but few producers are likely to be willing to take this course, because of the cost and delay. In addition, a later registrant may be reluctant to enter a new market because he would not be eligible for exclusive use protection for his data, and thus would be more vulnerable to competitors. Each later registrant would, however, be guaranteed the opportunity to claim compensation from subsequent applicants under the mandatory licensing provisions of the Act.

FIFRA section 3(c)(1)(D)(i) and the legislative history of that section carefully circumscribe the set of data that is eligible for exclusive use protection. In this rule, a study entitled to exclusive use protection is called an "exclusive use study," a term defined in § 152.83. Two specific conditions must be met before a study is eligible for exclusive use protection: (1) The data must pertain to a new active ingredient (or new combination of active ingredients), i.e., not registered before September 30, 1978; and (2) the data must be submitted in support of the "original registration" of the product containing that ingredient or amendments for new uses of that product. Moreover, there is a time limitation placed upon exclusive use rights, and an exclusion for "defensive data" (newly submitted studies required in connection with new registrations of "old" chemicals or to maintain an existing registration in effect). Each of these is discussed below.

First, the data must pertain to, or have been derived from testing on, a new active ingredient (commonly referred to as a "new chemical"). For the purposes of FIFRA section 3(c)(1)(D)(i), a new active ingredient means any pesticide active ingredient that is contained in any product that was not registered before the date of enactment of that section, September 30, 1978. The legislative history of the 1978 amendments further clarifies that exclusive use protection extends to data that pertain solely to a new combination of active ingredients, any or all of which may have been registered prior to September 30, 1978. With respect to a new combination, only those data that pertain solely to the new combination acquire exclusive use protection; data that pertain to the individual constituents of the combination that are not new chemicals acquire no exclusive use protection. This point is important because the types of data that the Agency requires to be submitted on the combination, as distinct from its components, are relatively limited.

Second, the data must have been submitted in support of the first registration of the new chemical or new combination. As EPA reads the statute, data are not protected because they pertain to the new chemical, but because they are submitted in support of a particular product registration. Thus, data submitted to support an application for the second (and later) registration(s), by whatever applicant, of a product containing the same new chemical acquire no exclusive use protection. (This interpretation has been disputed by industry commenters and is discussed further in Unit XI of this preamble.)

If the first registration of the new chemical is issued conditionally under

the authority of FIFRA section 3(c)(7)(C), those data whose submission was deferred at the time of registration are eligible for exclusive use protection when later submitted. Additionally, data in support of subsequent amendments to add new uses to the first registration of a product containing the new chemical gain such protection. In this latter case, protection is limited to data that pertain solely to the new use.

In no circumstance does the protection last more than 10 years from the date of first registration of the product containing the new chemical. If a new use were approved after eight years of registration, the data supporting that use would gain exclusive use protection for only two years. Likewise, conditionally required data would be protected only for the duration of the 10-year period from first registration.

Finally, the statute expressly specifies that exclusive use protection shall not be available for studies that the Agency requires to maintain registration in effect under FIFRA section 3(c)(2)(B), or that are currently required for registration of a product containing an active ingredient initially registered before September 30, 1978.

The prohibition against unauthorized citation of an exclusive use study applies only to an applicant's right to cite another's study in his application for registration, not to the Agency's review of data to determine whether or not the pesticide should be registered on risk/benefit grounds. The Agency's review of data for this purpose in no way negates or compromises the rights of the exclusive use data submitter or undermines the intent of Congress in providing such protection. A second applicant who wishes to cite the exclusive use study must obtain the written authorization of the exclusive use data submitter. If permission is denied, the second applicant is not precluded from entering the market, but must first replicate the necessary data or obtain it from another source. Thus, the exclusive use data submitter is assured that no competitor enters the market without either having his permission to cite data submitted to EPA (which he may condition upon the payment of royalties or compensation) or having generated (or otherwise acquired) at least the equivalent set of data required for registration.

2. Mandatory Licensing and Data Compensation

A second type of protection is established for data submitters by FIFRA section 3(c)(1)(D)(ii). This section provides that an applicant must offer to pay reasonable compensation for the right to cite another person's data. In including this provision, Congress intended to allow data submitters who have spent money for data development to receive payment from subsequent applicants who cite those data to obtain registration for competing products. Congress did not intend, however, that a scheme for compensation should function to exclude new products and producers from the marketplace. Accordingly, seciton 3(c)(1)(D)(ii) establishes a mandatory licensing scheme: once an applicant has extended a proper offer to pay compensation to a data submitter, the applicant may freely cite the other person's study. Unlike exclusive use protection, data submitters do not have the right to block competitors lacking their own data from entering the market; rather, they only have the right to receive compensation. The right to compensation, however, is limited in four ways: (1) Compensation is required only with respect to applicants who rely on the data during the 15-year period starting with submission of the data; (2) compensation is not required for data submitted before January 1, 1970,[4] (3) compensation is not required if the data are exempted from registration data requirements by the formulator's exemption (see Unit IV.B. of this preamble); and (4) compensation is not required for data from the "public literature."

Under the mandatory licensing provisions of FIFRA section 3(c)(1)(D)(ii), Congress also provided that disputes about the amount and terms of the compensation actually to be paid were to be settled either by negotiation between the data submitter and the applicant, or by binding arbitration under rules promulgated by the Federal Mediation and Conciliation Service.

[4] Beginning in 1985, the "non-compensable" date will advance as the 15-year "window" for compensation shifts forward. Thereafter, the January 1, 1970, date will be irrelevant, and compensation rights will be governed solely by the application of the 15-year calculations.

III. Summary of This Rule

This rule establishes procedures by which applicants will be able to demonstrate their compliance with the procedural requirements of FIFRA section 3(c)(1)(D), and thereafter for the Agency to determine under FIFRA section 3(c)(5)(B) that an application "complies with the requirements of the Act." The Agency's determination that an application has been properly supported under section 3(c)(5)(B) does not in any way imply that the Agency has reviewed, that an applicant has provided, or even that the Agency possesses a study that could be used by the Agency in its risk/benefit determination under FIFRA section 3(c)(5)(C) or (D) or 3(c)(7).

Certain data requirements must be satisfied by the submission of data that are unique to the applicant's own product. These are primarily requirements for product composition, efficacy, and certain acute toxicity data. For all other data requirements, the procedures an applicant may use to supply required supporting data will depend on two factors: (1) The data base to which he chooses to refer; and (2) the method by which he would actually demonstrate compliance with the requirements of FIFRA section 3(c)(1)(D).

With respect to the first factor, an applicant has the choice either of citing all relevant data in the Agency's possession that would satisfy any applicable data requirements (cite-all method), or of selectively identifying one or more studies to satisfy each individual data requirement (selective method). Having chosen which set of data to rely on in his application, the applicant will then have to decide the means by which he will obtain the right to rely on those data as part of his application. If he elects the cite-all method, the applicant's choice is limited to two methods: making offers to pay for the right to cite the data, or obtaining permission to cite the data. If he picks the selective method, he may choose one of these, or several other ways to demonstrate compliance. The table below is designed to assist readers in understanding the various procedures that could normally be used under each method.

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TABLE--COMPARISON OF THE CITE-ALL AND SELECTIVE METHODS

If an applicant chooses this method-->		Cite-all	Selective
He can satisfy a data requirement by this means: ↓			
1. Requesting and obtaining a waiver		NO	YES
2. Submission of a new study		NO	YES
3. Citation of his own study		NO	YES
4. Citation of another person's exclusive use study	a. With permission	NO	YES
	b. With offer to pay	NO	NO
5. Citation of another person's study that is not exclusive use	a. With permission	NO	YES
	b. With offer to pay	NO	YES
6. Citation of public lit. study		NO	YES
7. Citation of all pertinent studies in Agency files--exclusive use studies involved	a. With permission	YES	YES
	b. With offer to pay	NO	NO
8. Citation of all pertinent studies in Agency files--no exclusive use studies involved	a. With permission	YES	YES
	b. With offer to pay	YES	YES
9. Documentation of a data gap		NO	YES

Under the cite-all method the applicant may choose to make an offer to pay each original data submitter who has previously submitted data that may be pertinent to his product, its ingredients, and its uses. These persons are generally identified on the Agency's list of "Pesticide Data Submitters by Chemical" (abbreviated as the "Data Submitters List"). The applicant would not be able to demonstrate compliance by making offers to pay to all previous data submitters, however, if any pertinent data in the Agency's files are exclusive use data.

The only alternative to offers to pay compensation under the cite-all method would be for the applicant to obtain the written permission of each person who has previously submitted data pertinent to his product.

An applicant under the selective method has a greater number of acceptable ways of satisfying section 3(c)(1)(D) requirements. Under the selective method, the applicant is required to identify the specific data requirements applicable to his product by reference to a Registration Standard for the active ingredient(s) in the product or to the Agency's data requirements in 40 CFR Part 158. He is then required to satisfy each data requirement by one of the methods listed below (note that his choices are broader than simply making offers to pay or obtaining permission from data submitters). The numbers are keyed to the table in this unit.

1. Requesting and obtaining a waiver of the data requirement. (See Unit VI.C.1.)

2. Submitting his own new study. (See Unit VI.C.2.)

3. Citing his own previously submitted study. (See Unit VI.C.3.)

4. and 5. Citing another person's individual exclusive use or non-exclusive use study. If the study is an exclusive use study, permission must be obtained. (See Unit VI.C.3.)

6. Citing a public literature study. (See Unit VI.C.4.)

7. and 8. Citing all pertinent studies in the Agency's possession. If exclusive use studies are involved, permission must be obtained from the exclusive use data submitter. (See Unit VI.C.5.).

9. Demonstrating that no study has been submitted to the Agency (a "data gap"), permissible under the conditional registration provisions of FIFRA section 3(c)(7). (See Unit VI.C.6.)

It should be noted that applicants under the cite-all method will not be precluded from obtaining waivers, or submitting or citing their own studies (1. through 3. in the table), but that taking these actions would affect neither their obligation to cite all data, nor the procedures that require offers to pay or in certain cases, permission of each previous data submitter. Therefore, as the table indicates, none of these actions would suffice, in and of itself, to demonstrate compliance under the cite-all method.

Under the procedures of this subpart, requesting a waiver would be of concern primarily to those who choose the selective method of demonstrating compliance. An applicant under the cite-all method might, nonetheless, wish to establish that a data requirement has been waived in order to reduce the amount of data needed for an incremental risk assessment, or to limit his obligation to pay compensation (as

contrasted to his obligation to tender offers to pay compensation).

Similarly, the submission of a new study or the citation of a previously submitted study will be of most interest to applicants under the selective method, which involves meeting individual data requirements rather than referencing all previously submitted data. While no applicant is precluded from submitting his own data, under the cite-all method submission of a new study or citation of an old study would be in addition to the citation of all other relevant data in EPA's files. Under the selective method, however, the applicant submit his own study to satisfy a data requirement and thereby can avoid the need to offer to pay compensation for other studies in EPA's files that satisfy the same data requirement.

Both the cite-all and selective methods are subject to the requirement of FIFRA section 3(c)(1)(D)(i) that applicants must obtain written permission to cite exclusive use data. The existence of exclusive use studies would directly affect an applicant's choice of methods. Because an applicant who uses the cite-all method must rely on every relevant study in EPA's files, an applicant could not use that method if an exclusive use data submitter denied the applicant permission to cite his relevant data. The applicant could obtain registration only by using the selective method to demonstrate compliance with section 3(c)(1)(D).

In addition, when the Agency's files contain exclusive use data relevant to an applicant's product, this rule requires the Agency to provide notice to exclusive use data submitters if the Agency decides to register the product (regardless of the method of support chosen by the applicant). This special notification procedure is designed to give exclusive use data submitters the opportunity to oppose a proposed registration if the data submitter contends that the applicant has improperly relied on his exclusive use data without obtaining prior permission or has supported his application in a manner that improperly avoided citing the exclusive use data.

Pre-registration notification is neither necessary nor appropriate for other data submitters who are not entitled to prevent an applicant from citing their studies so long as the applicant has made an offer to compensate. The rule does, however, allow such previous data submitters to raise their objections after registration. An original data submitter who believes that an applicant had failed to follow the procedures of this subpart, or had not supported his application properly, can petition the Agency to cancel the registration.

IV. Scope and Applicability

A. Which Applications Are Subject to the Requirements

Under FIFRA section 3(c)(5)(B), the Agency must determine, as part of its decision whether to register a pesticide product, that the applicant has properly supported his application for registration with material that complies with the requirements of the Act. That determination must be made for each application (for new or amended registration or for reregistration), and requires that the Agency review the application to determine that all items listed in FIFRA section 3(c)(1) have been submitted and are in compliance with the Act. The procedures in this rule, however, apply only to applications which are subject to FIFRA section 3(c)(1)(D). The Agency has carefully considered which applications should be subject to the requirements of that section and this rule.

There are cogent arguments for broadly defining the scope of registration actions to which the requirements of section 3(c)(1)(D) apply. A literal reading of the statute would support the view that all applications of any type (new, amended or reregistration) under section 3 are subject to that section. (It should be noted that the strictest reading has never been used: The 1979 regulations contained a number of exemptions for certain amended applications for which review of scientific data was not necessary to approve the application.) Additionally, it can be argued that a broad interpretation of scope of actions subject to the data compensation provision of the statute would ensure the most consistent and equitable treatment of all producers in the marketplace. Each producer would have to comply with the exclusive use or compensation provisions of the Act whenever he sought any change in his registration. This would promote more rapid redistribution of the costs incurred by previous data submitters among all producers in the marketplace who now benefit or have benefitted from those data.

There are equally persuasive policy reasons why EPA should not adopt such a broad interpretation of section 3(c)(1)(D). First, if all applications were subject to its requirements, the Agency, as well as applicants and data submitters, would be inundated by large amounts of paperwork that would rapidly render the Agency's review process unmanageable. A significant portion of this paperwork burden would be applications for amended registration of a minor administrative nature, whose approval would have no effect on the product's competitive market position.

A secondary result would be that registrants faced with the necessity for section 3(c)(1)(D) compliance with each amendment, would be disinclined to request amendments to their registrations unless these amendments would improve their competitive position in the market. Registrants might choose not to pursue amendments not of direct economic benefit (but which are often in the public interest), such as improved labeling or composition changes to reduce hazards, given the possible compensation consequences. When this would lead to decreased public protection, the provisions of section 3(c)(1)(D) would clearly be contrary to the Agency's primary goal of protection against unreasonable adverse effects. EPA does not believe that Congress intended that the economic protections afforded by section 3(c)(1)(D) should be interpreted in a manner that could undermine the Agency's mandate for protection of public health and the environment.

A less obvious but similar situation might arise if the Agency proposes to cancel or suspend the registration of a product unless the registrant amends his registration in some manner directed by the Agency. Such "involuntary" amendments may be the result of the special review process, the classification process, or the Label Improvement Program. If the registrant's choice is either to comply with the provisions of section 3(c)(1)(D) in order to avoid cancellation or suspension actions that would remove him from the market, or to challenge the action and remain on the market, certainly there would be greater incentive to dispute or litigate the Agency's action. Such challenges not only are costly for the Agency, but also delay corrective measures intended to reduce risks to public health or the environment.

The Agency believes it may be appropriate to restrict the application of FIFRA section 3(c)(1)(D) to circumstances where an applicant needs EPA approval to enter or expand the market for his product, and where approval of the application potentially changes the competitive structure or balance of the market in the applicant's favor. Accordingly, EPA may later propose to modify this rule to limit the registration actions to which section 3(c)(1)(D) applies to applications for new registrations, applications for amended registrations to add a new use

for the product, applications to change the source of active ingredient from a registered supplier to an unregistered supplier and applications for reregistration. Because comment on this issue was not solicited in the 1982 or 1983 proposal notices for this final rule, however, this rule retains the provision defining the kinds of applications which must comply with 3(c)(1)(D) which is set forth in the 1979 regulations and the December 1982 proposal.

B. Which Data Requirements Must Be Satisfied

FIFRA section 3(c)(2)(A) requires the Administrator to publish guidelines specifying the types of data needed to support a registration. The Agency's registration data requirements are found in 40 CFR Part 158. That rule describes the types of data that the Agency must have to determine that the standards of FIFRA section 3(c)(5) are met. No application may be approved unless the Agency has this data, except that in some cases, FIFRA section 3(c)(7) permits the Agency to approve registrations conditionally if the data required under section 3(c)(5) have not previously been submitted to the Agency.

The list of requirements in Part 158 is the basis for determining which data an applicant must cite or submit to comply with section 3(c)(1)(D). Units V.B. and VI.B. discuss the need for and methods of determining data requirements under the cite-all and selective methods respectively.

C. The Formulator's Exemption

1. Purpose of the Exemption

FIFRA section 3(c)(2)(D) provides that any applicant who purchases a registered pesticide product from another producer and uses it to formulate an end use product need not submit, nor offer to pay for, data on the safety of the purchased product. This provision is commonly referred to as the "formulator's exemption." Since the costs that FIFRA section 3(c)(1)(D) is intended to recoup for producers are generally included in the purchase price of the pesticide they sell, that section would have the effect of requiring producers who purchase those pesticides in effect to pay data development costs twice—once as a condition of obtaining registration, and thereafter as part of the price of the pesticide they purchase to make their products.

Although section 3(c)(2)(D) specifies that only end use producers are eligible for the formulator's exemption, the legislative history of the statute offers additional guidance on the intent of Congress. The Report of the House Committee on Agriculture states:

> [The House bill] would obviate the need for formulators to furnish certain registration data by providing authority for "generic" registration. Under the "generic" registration plan, detailed submissions and evaluations of the basic chemical need not be repeated with each formulation . . . Applications will be simplified and formulators relieved of the need to offer to pay for the registration data except in the purchase price of the basic pest control chemical. [H. Rep. No. 95–663, 95th Congress, 1st Session, p. 19.]

It seems clear that the purpose of the formulator's exemption was to eliminate duplicative payment of data development costs. The same rationale that underlies the exemption for end-use products would also hold true for any other product whose active ingredients were purchased from another producer in the form of a registered product.

By limiting the exemption to end use products, FIFRA section 3(c)(2)(D) fails, perhaps unintentionally, to acknowledge the substantial body of products that are neither technical grade chemicals nor end use products, and that logically could or should be included within the formulator's exemption. Thus the language of the statute is constraining both upon the Agency and upon applicants for registration of other types of products whose ingredients are both registered and purchased. The Agency, therefore, interprets FIFRA section 3(c)(2)(D) to apply to any product whose ingredients are both registered and purchased, without limitation as to the intended use of the product. Products that are eligible for the formulators' exemption under this interpretation include not only end-use products but also so-called "formulation intermediates" or "technical concentrates," whose producers purchase registered products which are technical grade active ingredients and reformulate them into a less concentrated intermediate product that is sold for reformulation into an end use product.

As a result of the formulators' exemption, an applicant who qualifies need not list (and need not submit or cite data to fulfill) as many data requirements as an applicant for a similar registration who is not eligible for the exemption. Since the majority of data requirements in Part 158 require studies on active ingredients of the type that are often purchased and used to make end use products, and since the majority of applications are for end use product registrations, the formulators' exemption can result in a substantial reduction in the number of data requirements that must be listed for a significant number of applicants.

Under the cite-all method of support (and its variation within the selective method, see Unit VI.C.5 of this preamble), the formulator's exemption currently functions largely to limit the actual compensation paid for the use of data, not to reduce the amount of correspondence between applicants and data submitters. If certain data requirements are eliminated by the formulator's exemption, the applicant for registration of an end use product should, theoretically, also be able to eliminate correspondence to persons who have submitted only data that fulfill those requirements. In reality, however, the Data Submitters List is not sufficiently detailed that an applicant can ascertain which data submitters may be omitted. Thus he is compelled to write to all persons listed. He is not obligated, however, actually to pay any compensation for a study that would fulfill a data requirement for which he is not responsible.

Under the selective method of data support, on the other hand, the formulator's exemption would limit or simplify the transactions between applicants and data submitters required to comply with the procedures of this rule. The selective method requires that applicants write to previous data submitters with respect to individual data requirements they wish to satisfy (to obtain permission to use a specific study, to offer to pay compensation, or to verify a data gap). The reduction in the number of data requirements that must be satisfied would directly result in letters to fewer data submitters, in less complicated correspondence, or both.

2. Procedures for Formulator's Exemption

Section 152.85 describes the formulator's exemption. In order to prove that he is eligible for the formulator's exemption, the applicant would be required, at the time of filing for initial registration (or at the time the exemption is first claimed for the product), to submit a certification identifying which active ingredients in his product meet the requirements of FIFRA section 3(c)(2)(D). (In a product containing several active ingredients, the exemption might apply only to some ingredients.) The Agency provides a form for this purpose, on which the applicant would list each active ingredient that qualifies for the exemption. In addition, the Agency would have to receive, or have on file, an up-to-date Confidential Statement of Formula that lists the source(s) of each

active ingredient by name and, if registered, by EPA Registration Number.

Once this information is on file with the Agency, the applicant or registrant would not be required to resubmit it with succeeding applications for amendment, provided that he made no change in the source of his active ingredients. In all cases, a registrant who changes his source of supply of an active ingredient is required to file an application for amended registration with the Agency. If the change in source would disqualify the applicant from the formulator's exemption, the applicant must also comply with the requirements of this subpart. For example, if the applicant changes his source of active ingredient to one that was unregistered or begins to produce his own technical material rather than purchasing it (whether or not the technical material was also registered), he will no longer qualify for the exemption for data concerning that ingredient. On the other hand, a registrant who changes from an unregistered source to a registered and purchased source might wish to take advantage of the formulator's exemption and file a formulator's exemption statement, but he is not required to do so.

V. The Cite-All Method

A. Overview

This rule retains, as an option instead of a requirement, the essential features of the 1979 cite-all regulation. See former 40 CFR 162.9–4 and 162.9–5. The cite-all procedures fully protect the rights of data submitters under FIFRA section 3(c)(1)(D). The procedures require a direct offer to pay reasonable compensation to each original data submitter by the applicant for registration, as well as a general offer to pay filed with the Agency under which data submitters may claim compensation even if direct notice is not provided. Further, although the procedures require a potentially large volume of correspondence, they are straightforward and easy for applicants to follow and do not require that the applicant determine data requirements as a prerequisite to application. For the same reason, they are also easy for the Agency to administer. Moreover, most disputes are resolved outside of the registration process and delays in obtaining registration are thereby avoided. Finally, the procedures were used from 1979 to 1983 by applicants and data submitters alike, and thus are widely understood.

The primary disadvantage of the cite-all method to the applicant is that he may be compelled to pay for the more than the minimum set of data required by Part 158. Also, uncertainty about the amount of compensation that will ultimately have to be paid has been of major concern to many applicants.

The cite-all method contained in § 152.86 requires that the applicant acquire the right to cite all relevant data previously submitted to EPA by other persons. An applicant can establish his right to cite all relevant data by either getting permission from, or making an offer to pay to, each person on an Agency list of pesticide data submitters. Whether the applicant must obtain permission or may simply make an offer to pay is governed by whether the data are entitled to exclusive use protection under FIFRA section 3(c)(1)(D)(i).

B. Determination of Data Requirements

In order to file an application under the cite-all method, an applicant is not required to determine which data requirements actually apply to his product. By securing the right to cite all relevant data in EPA's files, the applicant obviates the need for identifying specific data requirements, specific studies, or data submitters for specific studies.

C. Demonstrating Compliance Under the Cite-All Method

Procedurally, the cite-all method set forth in § 152.86 is identical to that contained in 1979 regulations (see former §§ 162.9–4 and 162.9–5). Simply stated, the applicant must write to each previous data submitter and either obtain written authorization or make an offer to pay for the right to cite all of his relevant data.

The Agency maintains a list entitled "Pesticide Data Submitters by Chemical," (the "Data Submitters List) which contains, by chemical, the name and address of each previous data submitter who has indicated that he wished to be so listed. The list distinguishes by broad categories what type of data the person has submitted to the Agency (e.g., acute toxicity, efficacy), and whether the person has submitted any data that are entitled to exclusive use protection. The list does not associate studies with specific data requirements, nor does it characterize a study as to its validity or sufficiency.

If the Data Submitters List indicates that the person has submitted data entitled to exclusive use protection, the applicant must obtain a written authorization to cite the exclusive use data. If the applicant is unable to secure written authorization from any exclusive use data submitter, he would be precluded from using the cite-all method.

Section 152.86(a) lists the elements of an acceptable written authorization. The written authorization must grant the named applicant permission to use specified studies. The exclusive use data submitter could limit such permission, for example, only to a single application (by naming the product), or for a specified period of time. Regardless of the form and conditions of the written authorization, it must grant permission to use the study or studies at least for the application in question, such that the applicant can certify in good faith to the Agency that he has received permission to rely on the study. The Agency will rely on the applicant's certification that permission to use the exclusive use studies has been granted.

The Agency notes that the exclusive use data submitter may give broader permission than is required by the Agency. The data submitter may grant permission to cite his data with no time limitations; he may permit citation of the studies for future amendments to the same product, or for different products using the same active ingredient. The Agency requires only that the applicant certify (and be able to prove if challenged) that he has obtained the permission of the exclusive use data submitter for each individual application he submits.

If the Data Submitters List does not indicate that the person has submitted exclusive use data on the ingredient in question, the applicant must, at a minimum, make an offer to pay that person compensation for the right to cite any pertinent data in the Agency's files. Nothing would prohibit the applicant, however, from requesting written authorization to cite the data in addition to, or instead of, making an offer to pay. The data owner, in turn, is not obligated to give permission, but the fact that he did not authorize the applicant to cite his data will not preclude the applicant from demonstrating compliance with the cite-all requirements by having made the offer to pay in the correct form.

Before the Agency will approve his application, the applicant must certify that he has obtained the authorization of, or made appropriate offers to pay to, each person on the Data Submitters List. Moreover, since the Data Submitters List is constantly changing as new data submitters are added, but is reissued only about twice a year, the applicant will be required to extend a general offer to pay as a safeguard against inadvertent omission of a person from the Data Submitters List. Offers to pay to persons on the Data Submitters List must be made directly to those persons, and the applicant must certify to the

Agency that he has complied with this requirement. The general offer to pay must be submitted to the Agency as part of the certification. The Agency will make available to applicants a form for this purpose.

As in the past, the applicant will be permitted to submit his certification and general offer to pay at any time before registration is approved. The Agency will not delay the review of the application pending receipt of these statements, but will not approve the application until they are received and determined to be in compliance.

Thereafter, if the Agency identifies any exclusive use data submitter whose permission is a prerequisite to demonstrating compliance with requirements for the application in question, EPA will notify the applicant and require that he obtain written authorization from that person. This will only be necessary if the omitted person is an exclusive use data submitter; other data submitters are protected by the general offer to pay statement and may pursue any claims for compensation pursuant to that offer.

Section 152.86(d) requires the application to contain a statement that for purposes of FIFRA section 3(c)(1)(D), the application relies on all data in Agency files that concern his product, other similar products, or any of the active ingredients of his product, and that are of the kinds that would be relevant to an Agency risk/benefit evaluation under FIFRA section 3(c)(5). Similar language was contained in the 1979 regulation and the 1982 proposal.

VI. The Selective Method

A. Overview

As required by the *NACA* decision, EPA has developed alternative procedures to the cite-all method for meeting the requirements of FIFRA section 3(c)(1)(D), called the "selective method." These procedures are more flexible than the cite-all method, and allow an applicant to demonstrate compliance in a number of different ways. This flexibility exists because the applicant can address data requirements on an individual basis rather than collectively as in the cite-all method. The table in the Summary enumerates the options available to the applicant, each of which will be discussed further in this Unit. Further, the selective method should reduce or eliminate some of the unknowns associated with the cite-all method, since the applicant can, under the selective method, know with reasonable certainty the identity of each person whom he might have to compensate. The selective method will also reduce the potential for having to pay compensation for several similar studies satisfying the same data requirement, since the applicant can generally demonstrate compliance by citing a single specific valid study for each individual data requirement. Finally, this method permits applicants to comply with the requirements of FIFRA section 3(c)(1)(D) in circumstances when the existence of exclusive use data might preclude the use of the cite-all method altogether.

The selective method has some disadvantages when compared to the cite-all procedures. While the magnitude of these disadvantages is unknown, the Agency expects that a decision to use the selective method will involve heavier paperwork burdens on the applicant, and will require the Agency to devote more resources to reviewing the application to determine that the submitted materials comply with the Act, with a concomitant increase in time and cost of registration reviews in general.

Nonetheless, the Agency believes that the selective method is the only workable alternative available to comply with the *NACA* decision, and that applicants may find it advantageous with certain applications, such as those for which they intend (or are required) to develop and submit the bulk of the data themselves.

The selective method requires that the applicant identify each data requirement that potentially applies to his product, and demonstrate compliance with each. The selective method is summarized in § 152.90, and the various means of satisfying the requirements are described in §§ 152.91 through 152.96.

B. Determination of Data Requirements

Section 152.90 requires the applicant who chooses to use the selective method to identify and list the data requirements that apply to his products, its ingredients and uses. For an application for amended registration to add a use, the applicant must list requirements for all current uses of the product he seeks to register, as if the product were being proposed for its initial registration. This usually will not be a significant burden, however, since the applicant for a limited amendment can repeat the data requirements from his initial registration; only those pertaining solely to the amendment would be a new listing after the first such listing for that registration.

Most applicants will use 40 CFR Part 158, Data Requirements for Registration, to determine their data requirements. Part 158 consists largely of a series of tables of data requirements, grouped according to the broad category of data covered. Product chemistry, environmental fate, residue chemistry, toxicology, effects on fish and wildlife, effects on non-target plants and insects, reentry protection, and efficacy data are among the topics covered in Part 158. There is a separate compilation of the requirements that apply to biochemical and microbial pesticide products.

Subpart B of Part 158 describes how to use the tables to determine the data requirements applicable to a specific product. Under the selective method, the applicant must include in his list each data requirement that potentially applies to his product. Thus, he must list each requirement for his product (those denoted with an "R" in the tables), and the appropriate requirements among those that are conditional based on the product's use patterns, composition, physical characteristics or the results of the other tests (denoted "CR" in the tables). [In each case the footnotes to the tables explain the "R" or "CR" requirement more explicitly, and should be consulted.] In some cases, the applicant will not be able to determine from Part 158 whether the results of one test leads to a second required test because he does not have access to the test results in Agency files. The Agency will not adequately protect the data submitters' interests, however, if it permits an applicant to list, and satisfy, only the initial set of required ("R") tests. Either the Agency must require that the applicant list all possible data requirements, or the Agency must assume a burden of reviewing studies on an *ad hoc* basis to determine whether they trigger further data requirements, and notifying the applicant so that he may satisfy the added requirements. The Agency does not intend to review studies already in its possession on this case-by-case basis except when it chooses to, such as when a Registration Standard for an active ingredient is prepared. Consequently, EPA is requiring that applicants assume that all possible requirements apply and proceed accordingly.

An applicant who wishes to determine absolutely whether a conditional data requirement applies to his product may write to each person on the Data Submitters List (for his active ingredients) and ask whether that person has previously submitted a study that would satisfy the conditional data requirement. If any response is "yes," the applicant can assume that the data requirement had been imposed on another registrant, and therefore presumably will be imposed on him when the Agency reviews the data in its

possession. If no one responds that he had ever submitted such a study, the applicant would not know definitively whether the data requirement would apply to his product; but it would not matter, for present purposes, since the existence of a "data gap" would be sufficient to demonstrate compliance under the selective method "Data gap" procedures are discussed further in Unit VI.C.6 of this preamble.

In an ever-increasing number of cases, the Agency will have already conducted its comprehensive review of a chemical as part of the Registration Standards process. In that process, the Agency reviews all data in its possession on the chemical, and determines, based on the results of the various tests, whether secondary data requirements have been triggered. Thus, if the Agency has issued a Registration Standard on a chemical, that Standard will list each applicable data requirement, including those that are listed as conditional in Part 158. In this case the applicant need only (indeed he will be required to) recite the list of data requirements from the Standard for that active ingredient.

It should be noted that early Registration Standards cover both manufacturing use and end use products containing a chemical; later ones (generally those issued after April 1982) generally address only manufacturing use products. In the former case, the applicant for an end use product may list from the Standard the data requirements applicable to his end use product. In the latter case, he still must refer to the Part 158 tables to determine data requirements for his end use product and its uses.

One further consideration bears upon the applicant's list of data requirements. The formulator's exemption, as discussed earlier in Unit IV.C of the preamble, might eliminate a large number of data requirements for those who qualify. If an applicant qualifies for the formulator's exemption for one or more of the active ingredients in his end use product, he is not required to list data requirements applicable to the safety of those ingredients. If all of his active ingredients were eligible for the exemption, his list of data requirements will be reduced to those that apply to his end use product as formulated, a relatively short list. The applicant must, of course, file his formulator's exemption certification.

C. Demonstrating Compliance Under the Selective Method

Once the list of data requirements has been determined, the applicant must demonstrate compliance with each requirement by using one of the following options (summarized in § 152.90):

1. Data Waiver Request (§ 152.91)

Any applicant (not limited to those under the selective method) may claim the existence of or request a waiver of a data requirement. A waiver is an Agency action excusing an applicant from having to fulfill a data requirement that would normally apply to his product, based on arguments that the requirement would not be useful to the Agency in evaluating the risks and benefits of the product.

Only under the selective method can the applicant, by submitting information verifying the existence of a waiver, satisfy a data requirement. If the applicant can determine that a waiver has been granted previously by the Agency, either from published lists of waivers or from waivers noted in a Registration Standard, he can comply by simply noting the waiver, together with the Agency reference, and explaining briefly why the waiver should apply to his product. EPA will make available to applicants under Freedom of Information procedures any existing lists of waivers it has generated. However, few such lists exist, and the Agency generally will not systematically review pesticide data requirements for the purpose of developing lists of waivers except as part of its Registration Standards review. The Agency intends to explore methods of organizing the waivers granted on an *ad hoc* basis (outside of the Registration Standards process), so that they will be more readily accessible to applicants.

Requests for new waivers will be entertained as part of the application review. An applicant who wishes to request a waiver should refer to 40 CFR 158.45 for information on the procedures for submitting waiver requests. The applicant should note that a request for waiver will require more extensive review by the Agency to determine whether the waiver is justified, which could delay the approval of the application. Moreover, if the waiver request is denied, the applicant will have to choose a different method of demonstrating compliance, or appeal the denial through administrative channels.

2. Submission of a New Valid Study (§ 152.92)

An applicant may submit a new valid study to satisfy a data requirement. When the Agency refers to a "new" study, it means one that has not previously been submitted to the Agency.

A new study should contain the following: (1) A title page containing certain identifying information about the study; (2) a statement concerning its trade secret status under FIFRA section 10, and any claims of confidentiality made under that section; (3) a certification concerning compliance with the Good Laboratory Practice standards of Part 160; and (4) an English translation if written in a foreign language. In addition, each submission of one or more new studies should be accompanied by a transmittal document and bibliography of its contents.

3. Citation of Previously Submitted Valid Studies (§ 152.93)

Any valid study already in the Agency's possession can be cited to demonstrate compliance with a selective data requirement. The applicant should not submit another copy of such a study, but may simply reference it appropriately. If the study was originally submitted by the applicant himself, that is all he is required to do. Further, if the applicant owned the section 3(c)(1)(D) rights in a study as a result of a transfer of the rights from the original submitter of the study, he need only certify his legal ownership of the study for that purpose.

In all other situations, the applicant must determine whether the study falls into the category of exclusive use data, compensable data, or non-compensable data under FIFRA section 3(c)(1)(D) in order to determine the procedures for proper citation of the data. For exclusive use data and compensable data, the procedures in § 152.93(b) (1) and (2) for obtaining permission or making an offer to pay are exactly the same as those under the cite-all method, except that the applicant will write to a specific data submitter concerning a specific study rather than to all data submitters on the Data Submitters List.

When an applicant using the selective method has made an offer to pay to the owner of a specific study that he wishes to cite, he is not required to submit with his application to the Agency a general offer to pay.

4. Citation From the Public Literature

FIFRA section 3(c)(1)(D) specifically allows an applicant to cite data that "appear in the public literature" to satisfy a data requirement. Under the procedures set out by PR Notice 83-4, an applicant is permitted to cite freely any article in a journal. EPA will continue this policy, and § 152.94 so states.

Studies generated by or at the expense of any government agency, or paid for with public funds, may be cited by any applicant on the same basis as studies from the public literature. It is

the Agency's opinion that such studies fall into the same category as studies from the public literature.

The legislative history of the 1978 FIFRA amendments shows that Congress did not intend that merely being the first submitter of such a study should confer any rights under FIFRA section 3(c)(1)(D) to exclusive use or compensation. The Conference Committee Report states in relevant part that ". . . the conferees intend that the exclusive use and data compensation provisions of FIFRA should apply only to those data submitters who are entitled to exclusive use or compensation, either because they generated the data, paid for its generation, or otherwise have legal ownership of the data." (Sen. Rep. No. 95–1188, 95th Cong. 2d Sess. 29.) The same Report states:

> [A]s an alternative to describing tests made and results thereof, the applicant may cite data (1) that appear in the public literature, or (2) that previously had been submitted to the Administrator by the original data submitter if the exclusive use and data compensation provisions are met. [*Id.* at 14.]

The Agency believes that in the case of both public literature articles and government-generated studies, no ownership interest of the sort that was contemplated by the Congress has been acquired simply by submission or citation of the journal article or study to satisfy a data requirement.

The Agency is aware that many articles in journals are the results of research conducted by individuals working for, or supported by, a pesticide producer. Producers often arrange for research to be performed by universities, extension services or other extra-industry sources. Reports from some of these studies are submitted to the Agency in support of registration, and, in addition, published in scientific journals. Publication of scientific results is a means of disseminating information on pesticides and encouraging further research, which the Agency does not wish to discourage. If data submitters believe that, by publishing research in which they have a substantial monetary investment, they would forfeit or jeopardize their right to exclusive use or compensation, they will be inclined to forego publication and reserve their research studies for submission to the Agency. In that way they could clearly preserve their right to compensation or exclusive use. Thus free access to public literature studies arguably may discourage publication.

The Agency does not believe that its interpretation creates a loophole in economic protection afforded data submitters or stifles publication of research. EPA's experience in reviewing both data submitted directly by applicants, and journal articles from the public literature, shows that most such articles do not contain sufficient information, in themselves, to satisfy a registration data requirement. Published research typically describes the test methods and presents the results of the research in summary form. Such articles, however, rarely offer the detailed information (such as raw data results) needed by the Agency to reach sound conclusions about the risks and benefits of the pesticide, and to judge the validity of the study. This is particularly true of long-term studies, where the expense of the research would be most likely to cause concern about economic protection. When long-term studies are involved, journal articles alone will rarely suffice for registration purposes. Thus, the Agency sees no policy considerations that would compel a broader application of section 3(c)(1)(D) than currently used.

5. Citation of All Studies (§ 152.95)

Under the selective method, the applicant can choose to follow the cite-all procedures with respect to a single data requirement.

The procedures in § 152.95 are virtually identical to those under the cite-all method. The applicant must write to each person on the Data Submitters List and make an appropriate offer to pay (perhaps, but not necessarily, limited to a single data requirement; a single offer-to-pay letter could suffice for a number of individual data requirements). He then submits to the Agency, either at the time of application or before its approval, his general offer to pay and certification statement. The general offer to pay may also be limited to the specific data requirement(s) for which the applicant chose the cite-all option.

As in all of these procedures, if the Data Submitters List indicated the existence of exclusive use data, the applicant must obtain the written authorization of each such original data submitter instead of merely making an offer to pay. Lacking written authorization, he may not use the cite-all method for that data requirement and must pursue another option under the selective method (such as developing the data himself).

One drawback with using the cite-all procedures for a specific data requirement is that the Data Submitters List does not allow an applicant to determine whether a person on the list has submitted a specific study that would be pertinent to, or fulfill, the data requirement in question. Therefore, while an applicant may limit his request for authorization or offer to pay to studies that fulfilled a single data requirement, he still must write to each person on the list.

EPA is currently preparing a catalog of all of its data, which, when completed, will identify persons who have submitted specific studies, not just data on a particular chemical. The Pesticide Document Management System (PDMS) will catalog each study in the Agency's possession, describe its characteristics, and identify the original data submitter and date of submission. EPA is developing a system (accessible by computer terminal) that will permit users to correlate data requirements by chemical and use with specific data in Agency files that might fulfull those requirements. Once this system is fully operational, applicants should be able to determine whether data gaps exist without the need for extensive correspondence, and also to ascertain whether waivers have been granted. This system will also permit applicants to limit correspondence where appropriate to those persons who have submitted data which may fill a particular data requirement.

6. Data Gap Confirmation (§ 152.96)

In many cases, an applicant may obtain conditional registration even though there are "data gaps" for some of the data requirements for his product. Under FIFRA section 3(c)(7), the Agency is authorized to register some pesticide products conditionally. That section required, in pertinent part, that the Agency determine that ". . . approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment." This "incremental risk" determination can often be made without the full range of studies that would be necessary to permit the overall determination of "no unreasonable adverse effects" required by FIFRA section 3(c)(5) (C) and (D). The finding of no incremental risk is a risk/benefit determination analogous to that under FIFRA section 3(c)(5) (C) and (D), and, likewise, is a separate function from the determination that the amount or type of data made available to the Agency by an applicant meets the section 3(c)(1)(D) data submission requirements.

The same data requirements are imposed under FIFRA section 3(c)(7) as under FIFRA section 3(c)(5), but, for already existing ("old") uses, section 3(c)(7) provides that if the Agency does not already possess data satisfying

those requirements, the applicant for conditional registration is not required to produce such data prior to registration when previous applicants have not had to do so. The applicant for conditional registration is required, however, to produce data that (1) pertain uniquely to his product (e.g., chemical composition, efficacy), or (2) are needed for the Agency's incremental risk determination (e.g., data pertaining solely to a "new" use).

The absence of generic data that do not bear on the incremental risk determination, therefore, is not a bar to the conditional registration of a product. The Agency will not deny conditional registration of a product under FIFRA section 3(c)(7) (A) or (B) solely because an applicable generic data requirement not essential to the incremental risk judgment has never been satisfied.

The procedures used to show that a data gap exists depend on whether EPA has issued a Registration Standard covering the active ingredient(s) in the applicant's product, and on the scope of that Standard. If a Registration Standard for an active ingredient has been issued, and the Standard covers both manufacturing use and end use products (generally those before April 1982), the applicant's task will be comparatively simple, since the Standard will list any data requirements, including those for which the Agency does not possess data. The applicant may rely on such a list of data gaps for the purpose of demonstrating compliance. If the Standard does not cover end use product data requirements, the applicant will have to follow the procedures in § 152.96 if he wishes to demonstrate a data gap for the end use data.

The Agency will track data submissions in response to the issuance of a Standard or other requirement to submit data pursuant to FIFRA section 3(c)(2)(B) and update Agency files promptly when a data requirement has been fulfilled. Nonetheless, there may be occasions when data that eliminate a "gap" have been submitted although a Standard still indicates that there is a data gap. The Agency will assume the responsibility for notifying affected applicants in such cases. The applicant will be required to select another method of demonstrating compliance for that data requirement, such as making an offer to pay for the newly submitted study.

If no Standard has been issued, an applicant can demonstrate a data gap by writing to each person on the Data Submitters List and asking him if he has previously submitted a study that would fulfill the data requirement(s). Data submitters will have 60 days in which to respond to data gap inquiries. If no one responds that he has submitted a study that fulfills the requirement, the applicant can certify to the Agency that a data gap exists. If any person responds within the 60-day period that he has submitted such a study, then the applicant may not claim that a data gap exists.

Failure to respond limits the data submitter's challenge rights after registration. Specifically, he cannot claim that the applicant had improperly claimed a data gap, a limitation which might preclude the data submitter's successfully petitioning the Agency to challenge the applicant's registration. (See Unit IX of this preamble for a discussion of a data submitter's rights to challenge a registration.)

If a data submitter indicates that he has submitted such a study, then the applicant can use the procedures in § 152.93 for citing that specific study. If more than one person responds that he had submitted such a study, the applicant can choose either to cite one of the studies or to cite all studies by following the procedures in § 152.86. It is unlikely, but not impossible, that exclusive use data would be the subject of a data gap search, since the Data Submitters List would normally alert the applicant to its existence. If, however, correspondence reveals the existence of exclusive use data that satisfies the requirement, the applicant must obtain the requisite written authorization if he wishes to cite the study.

The data gap procedures may not be used in certain instances. First, an applicant for conditional registration of a new active ingredient under FIFRA section 3(c)(7)(C) may not use the procedures. The applicant for registration of a new active ingredient is expected to submit all data necessary to make a full risk/benefit determination under FIFRA section 3(c)(5). Failure to submit any needed study at the time of application is not acceptable unless the Agency has so recently imposed a data requirement that the applicant has not had time to produce the data. In this case, the applicant may comply not by demonstrating a data gap, but by demonstrating the recentness of the data requirement, and then, only by persuading the Agency that, in the public interest, the product should be registered for the limited period of time before the study is completed.

Second, the data gap procedures may not be used for data requirements for which each applicant must develop and submit data on his own product. Such data include basic product composition data and, in some cases, certain efficacy data (e.g., efficacy data for antimicrobial products and for vertebrate control products formulated as baits).

Finally, the data gap procedures may not be used for a data requirement if the data are needed to make an incremental risk assessment under FIFRA section 3(c)(7)(B), typically for a new use. 40 CFR 158.30 describes the basic rule of thumb for determining whether this is the case. An applicant must determine the data requirements that apply to the product and its existing uses, and compare that list with the data requirements which apply to the product with the addition of the new use. Any differences in requirements are attributable solely to the new use, and data to satisfy them must be submitted at the time of application.

VII. Agency Review to Determine Compliance

Under FIFRA section 3(c)(5)(B), the Agency must review applications to determine whether the materials required to be submitted, including those that are required by this Subpart E, comply with the requirements of the Act. This part of the review need not take place before the Agency begins to review the application for compliance with other statutory requirements, but must occur before the registration is approved. EPA recognizes that the correspondence requirements of this subpart may take some time, and that an applicant may not wish to await responses in all cases before filing his application. A notable example is data gap certifications: if a data gap is suspected, the applicant can not claim that the gap exists until he has waited 60 days after corresponding with data submitters. EPA sees no reason why correspondence times and Agency review times may not run concurrently. Section 152.84 therefore provides that applicants may submit materials required by this subpart at any time before registration is granted. The Agency will not delay the review of other information pertinent to the application pending receipt of lists and certification statements, but will not approve the registration until they are received.

Applicants should be aware, however, that if deficiencies are found in materials submitted late in the Agency's review, the registration could be delayed while the applicant corrects the problem. It the Agency completes its review of the application, but has not received the applicant's submissions under this rule, the Agency will send the applicant a rejection letter, which will include a 75-day response time, after which the application will be treated as

though it had been withdrawn. A new application will be required if the applicant wants to pursue registration at some later date.

For all applications, the Agency will review any formulator's exemption statement to confirm that the applicant is eligible for the exemption, based on his Confidential Statement of Formula.

Applications under the cite-all method will be examined primarily to determine that the applicant's certification and general offer to pay have been correctly submitted. (The Agency will not ascertain the data submitters to whom the applicant had written.) This review will not be time-consuming, and the Agency will be able to resolve any problems quickly and directly with the applicant.

Applications under the selective method will be more extensively reviewed. First, the Agency will examine the applicant's list of data requirements to determine that all applicable requirements have been included. The Agency will verify those conditional requirements that depend on use patterns, product composition, or physical or chemical characteristics, but will not attempt to determine whether conditional requirements based on the results of other studies were actually imposed, i.e., EPA normally will not review results of the first-level studies to see if they triggered a conditional requirement.

EPA will then check that the applicant has demonstrated compliance for each listed data requirement by one of the means provided in this subpart, and that his certification reflects that required offers to pay, written authorizations, and data gap claims have been made or obtained in accordance with this subpart.

If the Agency determines that the applicant has failed to list an applicable data requirement, the Agency will notify the applicant, and will refuse to register the product until the applicant had corrected the deficiency. Since adding an omitted data requirement might result in the applicant's having to engage in futher correspondence with data submitters, the registration could be delayed. Approval of an application will not constitute a waiver of any data requirement the applicant may have omitted; a data submitter later may challenge the registration under § 152.99.

The Agency will review any new study submitted by an applicant to determine its validity and sufficiency, but will not necessarily review studies previously submitted. Thus, approval of an application does not mean that the Agency has determined that previously submitted studies are valid or sufficient from a scientific standpoint under present-day standards. As discussed in Unit IX, a data submitter may challenge a registration based on a claim that non-valid studies have been cited. If a challenge is made, the Agency will review a previously submitted study; if it is found to be invalid or insufficient, the applicant's registration could be jeopardized.

In order to protect exclusive use data rights, the Agency will notify each exclusive use data submitter before it grants a registration which may have been supported by exclusive use data. This procedure will not be necessary, however, if the applicant can provide to the Agency a statement from each exclusive use data submitter (in most cases there is only a single exclusive use data submitter) that he was aware of the applicant's application, and does not object to its issuance. In essence, the applicant may anticipate the Agency's 30-day notification and assume responsiblity for it himself.

In the absence of the applicant's taking this step, § 152.116 provides for pre-registration notification at least 30 days before the registration is granted, during which time the exclusive use data submitter can request further information concerning the applicant's means of demonstrating compliance with data requirements, and subsequently petition the Agency to deny the application for failure to comply with FIFRA section 3(c)(1)(D)(i). The Agency will entertain a pre-registration petition only if it concerns the applicant's failure to list, or obtain written authorization for, a study for which the petitioner holds exclusive use rights.

The Agency will periodically make public a listing of registrations issued, including the name and address of the registrant, the name of the product, the active ingredients, and the method of compliance. The Agency currently maintains such a list, and intends to continue this practice.

Moreover, the materials submitted in accordance with this subpart, including the applicant's list of data requirements under the selective method, his means of compliance for each, and his citations of studies in the Agency's possession, will be available to any person after registration upon request under Freedom of Information procedures. The Agency is promulgating § 152.119 to state this policy clearly.

VIII. Rights and Obligations of Data Submitters

Section 152.97(a) describes the right of data submitters to be listed on the Agency's Data Submitters List. As noted earlier, the Agency will use this list as the basic reference for applicants for corresponding with data submitters.

When the list was developed in 1980, its purpose was to identify persons who wished to receive letters from applicants offering to pay compensation for the right to cite their data under the 1979 cite-all regulations. The Agency surveyed its registrants at that time to eliminate from the list any who did not wish to receive such offers. A large number of end use producers chose to forgo potential compensation apparently because of the expense of responding to offers to pay for data that, after negotiation or arbitration, might prove to be non-compensable, or of such low value that the expense was not warranted. Because it is possible that a data submitter might wish to receive offers to pay or to have the opportunity to give or deny permission for the right to cite data, this rule provides, in § 152.97(a), that a data submitter will be able to request that his name be added to the list.

A data submitter may request inclusion on the list at any time, which he may do by submitting pertinent information about his studies to the Agency. The Agency will refuse to include studies submitted before 1970 and studies which each applicant is required to submit on his own product, such as product composition information and certain efficacy studies.

Section 152.97(b) describes the data submitter's obligation to respond to requests for confirmation of a data gap. Data submitters have an interest in responding to requests from applicants to verify the studies they have submitted. This rule does not require that data submitters respond to correspondence from applicants, since the Agency could not enforce such a requirement under FIFRA. The Agency notes, however, that FIFRA section 3(c)(1)(D) was included in the Act specifically to protect the economic rights of data submitters. The data submitter who fails to respond will be affected to the extent that the Agency will not recognize his right to challenge a registration on the grounds that his data was not cited.

Section 152.98 describes the data submitter's right to transfer his section 3(c)(1)(D) rights to another person. Heretofore, the Agency has generally (but informally) assumed that transfer of registration and transfer of data submitted or associated with that registration where linked, and data rights under section 3(c)(1)(D) have been assumed to belong to the person who held the registration. EPA believes that

in the majority of registration transfers, this has been and will continue to be the intent of the parties, although the Agency rarely has been informed specifically that that was the case.

The Agency, however, acknowledges that there may be situations when a data submitter (who may also be a registrant) would wish to retain the rights to exclusive use or data compensation while transferring the registration of the product. Alternatively, there may be situations when a data submitter would wish to sell or transfer those rights while retaining the marketing rights conferred by registration. The Agency's Pesticide Document Management System (PDMS) now being developed will permit the Agency to track items of data independently of the regulatory action in connection with which they were originally submitted, and is thus compatible with a transfer system that functions separately from that for registration. Moreover, the tracking of data under the PDMS and the transfer or registrations are carried out by different units within the Office of Pesticide Programs, and it is logical that a separate transfer be permitted.

Section 152.98 describes the transfer documents required to be submitted to the Agency so that the Agency can fulfill its responsibility under 3(c)(1)(D) to protect the economic rights of data submitters.

IX. Data Submitters' Challenge Rights

A. Exclusive Use Rights

The exclusive use provisions of FIFRA section 3(c)(1)(D)(i) offer full protection only if the Agency provides the exclusive use data submitter the opportunity to keep a competitor's product off the market, i.e., to insure that registration is denied in situations where the data submitter's rights would be violated. Once the product has been registered and enters the market, the exclusive use data submitter, although he has recourse, has lost the protection intended by the Act.

In order to protect against this unlikely occurrence, the rule provides in § 152.116 that the Agency will notify the exclusive use data submitter of its intention to register a product which might possibly have been supported by his exclusive use data. The exclusive use data submitter will have the opportunity to challenge the issuance of the registration on the grounds that the applicant had not obtained his written permission, or had otherwise made an improper certification to the Agency. After 30 days the Agency will proceed to register the product if no challenge has been received.

The applicant may himself notify the exclusive use data submitter, and provide the Agency with evidence of the data submitter's permission to proceed with issuance of the registration, thereby eliminating the 30-day waiting period.

B. Compensation Rights

In administering the compensation provisions of the Act, the Agency intends to rely heavily on data submitters to monitor compliance with the procedures of this subpart. Section 152.99 of this rule establishes a petition procedure by which data submitters can challenge the Agency's issuance of a registration. Certain petition procedures—those preceded by an offer to pay in accordance with FIFRA section 3(c)(1)(D)(ii)—are provided for, and limited by, the Act itself. This rule establishes similar petition procedures to accommodate situations under the selective method for which no offer to pay has been made.

The rule limits challenge rights under the rule to persons who have submitted valid data to fulfill a requirement for which the applicant purportedly has failed to demonstrate compliance. The applicant's failure to comply must be shown to have affected rights that the data submitter actually possesses. The Agency believes that a data submitter who had never acquired such rights by submitting a pertinent study should not be permitted to request cancellation of the registration of a competitor under these procedures.

To assist data submitters in the task of monitoring compliance, the Agency will periodically make public a list of the applications it has approved, including the name and address of the registrant, the product name and registration number, the date of registration, the active ingredient(s) in the product, and the applicant's method of compliance. From this list a data submitter may ascertain whether an applicant under the cite-all method had failed to make the required offer to pay. The data submitter then may write to the registrant and assert his claim for compensation based upon the registrant's general offer to pay.

If the Agency's public notice indicates that the applicant has used the selective method, a data submitter who wishes to determine whether he should have received an offer to pay first must request the applicant's list of data requirements and means of complying with each to determine whether the applicant cited any of the submitter's data. The time period for challenging the registration does not begin until the data submitter has received these materials.

1. Challenges Preceded by Offers To Pay

In contrast to the exclusive use provisions of the Act, which, to offer full protection, must be enforced before registration is granted, an applicant can fully comply with the requirement of the statute by making a general offer to pay under the cite-all method (and the selective cite-all option). The data submitter is adequately protected by this procedure, which preserves the right to compensation even if the registration has for any reason been improperly approved. Compensation may be claimed at any time after the offer to pay has been extended. Provided the offer to pay has been made, the issuance of the registration itself is not of sufficient import to warrant advance notice to data submitters.

The Act does not contemplate that, when offers to pay have been made, disputes over compensation should delay the registration of products. Rather, such disputes are to be handled through negotiation or arbitration without Agency involvement. Therefore, the Act provides, in section 3(c)(1)(D)(ii), that a data submitter may request that the Agency cancel the registration only after an applicant has failed to participate in an agreed-upon procedure for determining the amount of compensation due, has failed to participate in an arbitration proceeding, or has failed to adhere to any agreement or arbitration decision. Section 152.99(a)(1) limits the grounds for petitioning the Agency to those specifically provided by the statute.

FIFRA section 3(c)(1)(D), moreover, provides that if the Agency determines that the applicant or registrant has failed to participate in such an agreement or in an arbitration proceeding, or has failed to adhere to any such agreement or arbitration decision, then the Agency shall cancel (or deny) the registration with 15 days notice without further hearing. Consequently, §152.99(c)(2) provides that the Agency will notify the applicant and the petitioner at least 15 days before any intended cancellation of the product. Within the 15 days, the registrant of the affected product may respond to the Agency, but may not challenge the Agency's action in an administrative hearing forum. If the Agency subsequently cancels the product registration, the registrant can pursue his appeal in an appropriate United States District Court.

2. Other Challenge Rights (Under the Selective Method)

The selective method does not lend itself as readily to monitoring by data submitters, because of the specificity of its procedures and the variety of options available to the applicant to comply with data requirements. A data submitter will not necessarily receive an offer to pay from each applicant, as he would under the cite-all method. Nor will he be able to determine from the Agency's listing of approved applications whether he should have received an offer to pay, since an applicant may have submitted his own study, or cited another data submitter's study.

The Agency's review of selective method submissions primarily will attempt to determine that the applicant has listed each applicable data requirement, and has demonstrated compliance by an appropriate method. Several methods rely on the applicant's certification that he has complied with the procedures. Moreover, the Agency will not review cited data to determine its validity by current scientific standards or sufficiency for regulatory purposes, and thus an applicant may cite a study that, upon review, would no longer be acceptable in support of registration. For these reasons, EPA believes it necessary that data submitters be allowed to challenge selective method registration actions (other than selective cite-all, which would be governed by the general offer to pay) to protect any perceived loss of rights under FIFRA section 3(c)(1)(D). The procedures in § 152.99 will be used for this type of challenge.

Section 152.99(a)(2) lists several types of complaints that might serve as the basis for a petition by a data submitter under the selective method. Among these are failure to satisfy data requirements that should be or have been listed, failure to follow required procedures, improper certification with respect to written authorization, offers to pay, or data gaps, or citation of an invalid study. Where any such failure involved the cite-all option, however, the Agency expects the data submitter to avail himself of the general offer to pay rather than petition for cancellation of the registration.

Section 152.99(b) requires the data submitter to make his challenge in a timely manner, and to assume the responsibility of notifying the registrant of his challenge. A challenge must be filed with the Agency within one year after the Agency makes public its listing of recently approved applications. The registrant is permitted 60 days to respond to the petitioner's complaint.

Thereafter, the Agency will use the procedures for denial or cancellation provided by either FIFRA section 3(c)(6) or 6(b), including the possibility of conducting hearings if it finds the petitioner's arguments or the applicant's response to be persuasive. Any hearings will be conducted in accordance with the procedures of 40 CFR Part 164, with the only issue for resolution at the hearing being whether the applicant had failed to comply with the requirements of this subpart in the manner described by the petitioner.

X. Differences Between This Rule and PR Notice 83–4

This rule contains a number of significant additions to, deletions from, and modifications to PR Notice 83–4, issued June 16, 1983, under which the Agency has been operating for the last year (see Unit I.D of this preamble). These differences are summarized in this unit.

1. Inclusion of Offers To Pay

The most obvious difference is that this rule includes provisions for offers to pay for the right to cite a data submitter's study. Under the *Monsanto* and *Union Carbide* district court decisions, the Agency could not permit an applicant to cite a data submitter's study without the latter's written authorization. The Supreme Court's decisions upholding the constitutionality of FIFRA section 3(c)(1)(D) and vacating the district court judgments have removed that bar. Therefore, this rule includes procedures allowing offers to pay.

2. Reliance on Registration Standard for List of Data Requirements

Section I.A. of PR Notice 83–4 requires the applicant to base his list of data requirements on the Agency's data requirement regulations found in 40 CFR Part 158. This rule provides that, when a Registration Standard has been issued for an active ingredient, the applicant may rely on the list of data requirements contained in the standard, and need not undertake the exercise of determining data requirements from Part 158. This will reduce the burden of listing data requirements for active ingredients for which Registration Standards have been prepared.

3. Restrictions on Waiver Requests Eliminated

Section I.A.3. of PR Notice 83–4 stated that the Agency would not, during the period that the PR Notice was in effect, consider waiver requests except when the applicant would be required to generate new data to fulfill a requirement, i.e., when no person had previously submitted such data. This was included so that the Agency would not have to spend time reviewing requests for waivers of requirements which, although theoretically imposed, as a practical matter did not result in actual economic burden upon applicants. The Agency's data requirement regulations in 40 CFR Part 158 permit requests for waiver without restriction. Consequently, this rule allows waiver requests without restrictions as to whether data relevant to the requirement have been previously submitted.

4. Certification With Respect To Written Authorizations

Section I.B.1.c. of PR Notice 83–4 required an applicant to submit to the Agency the written authorizations obtained from other data submitters. EPA does not believe that written authorizations should routinely be submitted to the Agency, and does not wish to receive such paperwork which would have to be processed and filed in substantial volume. Accordingly, this rule provides that an applicant merely must certify to the Agency that he has in fact received such authorizations. Only if the registration were subsequently challenged would the Agency ordinarily expect the applicant to present the written authorizations to verify compliance with the requirement.

5. Reliance on Registration Standard for Data Gaps

Section I.B.2. of the PR Notice required that an applicant who wishes to demonstrate a data gap write to each person on the Data Submitters List. In cases where a Registration Standard has been issued, however, EPA believes that the applicant can rely on the data gap listings in that Standard. The Agency will assume the responsbility of notifying applicants if a data gap has been filled, so that the applicant can select another method of demonstrating compliance with that data requirement.

6. Notice to Prior Data Submitters

Section I.D. of the PR Notice provided an optional procedure whereby applicants could write to exclusive use data submitters concerning the data requirements for an active ingredient. Under that section, the exclusive use data submitter could provide the applicant (and the Agency) with his list of applicable data requirements. In Section II.B. the opportunity to provide lists of data requirements to the Agency

was extended to all data submitters, not just exclusive use data submitters.

Sections III.A. and B. of the Notice stated that the Agency would compare such lists during registration review to determine compliance with the requirements of the notice. In the case of exclusive use data, the Agency indicated that it would notify both the applicant and the exclusive use data submitter of any discrepancies between their respective lists.

The purpose of this correspondence was to minimize the possibility of disputes between applicants and data submitters (particularly exclusive use data submitters) that the Agency might later be called upon to adjudicate via the petition procedures. Advance correspondence between applicants and data submitters would permit agreement on essential points of contention before registration was approved, and avoid the petition, hearing, and cancellation processes after registration.

EPA encourages the exchange of information between applicants and data submitters at all phases before, during, and after application, but notes that this optional procedure need not be the subject of rulemaking.

With respect to the submission of lists of data requirements to the Agency, and the Agency's use of such lists in its review of an application, EPA notes that the Agency itself is responsible for determining the data requirements for any given product. Lists from previous data submitters would therefore serve no additional purpose. Moreover, their review would burden the Agency's review process unnecessarily, without contributing significantly to EPA's decisionmaking ability. Therefore, this rule does not provide that data submitters (exclusive use or other) may submit such lists to the Agency. The Agency will not accept such lists, and will not review them as part of its application review. A submitter of exclusive use data will be notified before a registration which might involve such data is granted, and may present his claim at that time. Other data submitters will have the opportunity after registration to pursue their claims of erroneous or incomplete data requirements lists.

7. Submission of Lists of Studies Previously Submitted to the Agency

In similar fashion, Section II.B. of the Notice provided that data submitters could send lists of their previously submitted data to the Agency to assist in determining compliance with the written authorization provisions of the Notice. Such provisions are not included in this rule.

8. Review of Studies To Determine Conditional Data Requirements

Section III.A. of the Notice stated that the Agency might review studies in its possession in order to resolve conflicts between applicants and data submitters as to whether a conditional data requirement applied. EPA intends to review data in its possession only when necessary to assess the risks and benefits of a product, such as during the Registration Standards process. The applicant will be free to use the data gap procedures to verify conditional data requirements, but otherwise, disputes will be resolved after registration through the challenge procedures.

9. Risk/Benefit Review Excluding Exclusive Use Data

Footnote 13 pertaining to Section II.C. of the Notice stated that, during the period the PR Notice was in effect, EPA would, at the request of an exclusive use data submitter or applicant, attempt to determine whether the applicant's application theoretically could be approved on risk/benefit grounds based upon data that were submitted or cited with the application without consideration of other exclusive use data in EPA files submitted by other persons. The Agency sees no compelling reason to continue to provide for such limited reviews, which have no bearing upon the actual registrability of the product, and which run counter to EPA's interpretation of the statute that allows the Agency to review all available data in making risk/benefit determinations. Accordingly, this rule does not provide for, and the Agency will not conduct, such independent reviews.

10. Pre-Registration Notification Only To Exclusive Use Data Submitters

Section III.C. of the PR Notice stated that the Agency would notify all data submitters of the intended registration of a product which raised exclusive use concerns. Under the language of the Notice, notification was inadvertently extended to all data submitters, when only exclusive use data submitters were affected and were intended to receive such notice. The rule therefore limits pre-registration notification to exclusive use data submitters. Since lists of data requirements will not be accepted from data submitters, the notification will not include any comparisons of, or discrepancies between, lists of data requirements submitted by the applicant and by the exclusive use data submitter.

11. Challenge Procedures

The Agency has made two significant changes in the challenge procedures as stated in Section III.E. of the Notice. First, a time limit of one year for submission of petitions to the Agency is provided. Second, the rule requires that the petitioner, not the Agency, notify the registrant of the filing of the petition. Both of these changes are intended to minimize the amount of time and resources the Agency must devote to challenges. Moreover, the direct notice from petitioner to registrant will encourage early informal resolution of the problem between the two, and may eliminate the need for Agency involvement.

XI. Response To Comments

A. Relationship of FIFRA Section 3(c)(1)(D) to Risk/Benefit Decisions

The National Agricultural Chemicals Association (NACA) and several pesticide producers (American Cyanamid Co., Mobay Chemical Co., and Dow Chemical U.S.A.) who commented on the proposal and on the interpretation announced in July 1983 (48 FR at 34002) took a position different from the Agency's on the proper legal interpretation of FIFRA section 3(c)(1)(D). NACA asserted that if an applicant submits a complete set of his own valid data, fully meeting the requirements of 40 CFR Part 158 and complying with section 3(C)(1)(D), the Agency must conduct its risk/benefit review of that product using only the data submitted by the applicant. NACA argued that the fact that an applicant may demonstrate compliance with the FIFRA section 3(c)(5)(B) by submission of a complete data set means that the Agency is compelled to make its risk/benefit decision to register a product under section 3(c)(5) or 3(c)(7) on the applicant's data alone. NACA argued that the Agency may not review data not submitted or cited by the applicant, even when the studies are performed on an ingredient in the applicant's product and are clearly relevant to the Agency's risk/benefit determination. (NACA did not dispute the Agency's use of data not submitted or cited by the applicant that "detract" from the proposed registration, i.e, that would be used to restrict the use of the product, or to cancel or suspend its registration.)

As discussed in Unit II.A of this Preamble and in PR Notice 83–4, the Agency believes that this interpretation is not consistent with other statutory provisions. Moreover, there are several important policy reasons to oppose this reading of FIFRA. From a practical standpoint, this approach would require EPA scientistis to "put on blinders" in their review of the pesticide by looking

at the data submitted by one applicant as if no other information existed on the chemical. Agency scientists cannot simply "forget" what they already know from previously reviewed studies. Even if this were possible, Agency, scientific resources are inadequate to conduct repetitive reviews of studies supporting each individual application to determine if the standards for registration are met.

Most important, the NACA interpretation would not be a scientifically sound approach to determining whether a pesticide may cause unreasonable adverse effects. Universally accepted scientific principles require that all relevant information, not an arbitrarily selected subset of the information, be considered in making risk/benefit decisions. The Agency has consistently adhered to this principle. The Agency rejects any interpretation of the statute that would limit the scope of the information reviewed or compromise the integrity of its scientific decisionmaking process.

NACA also asserted that any data the Agency reviews in its risk/benefit decision must be considered to be "in support of" registration as described in FIFRA section 3(c)(1)(D), and therefore subject to the provisions of that section. This assertion fails to recognize that section 3(c)(1)(D) clearly applies only to information required to be submitted with the application, not information used for any other purpose under FIFRA. The Agency may, and does, consider data for various scientific purposes—to determine risk/benefit consequences of use, to determine whether restrictions on use are necessary, to determine proper labeling for products, to determine whether to cancel or suspend a pesticide. In all these cases, the Agency uses data to arrive at its decision. But section 3(c)(1)(D) applies to Agency consideration of data for one purpose only—the Agency's determination under section 3(c)(5)(B) that "material required to be submitted [by section (3)(c)(1)] complies with the requirements of the Act." Having determined that the economic protections intended by section 3(c)(1)(D) have been adequately ensured, the Agency may subsequently use the data for whatever scientific purposes it deems necessary, by itself or together with other available information. It is the Agency's opinion that such use is not governed by section 3(c)(1)(D), and that consideration of any data for purposes other than sufficiency of an application under section 3(c)(5)(B) does not trigger the application of the exclusive use or compensation provisions of section 3(c)(1)(D) to that data.

B. Scope of Exclusive Use Protection

A second area in which the Agency disagrees with comments by NACA and another commenter concerns the scope of the exclusive use protection afforded data submitters under FIFRA section 3(c)(1)(D)(i). In a May 16, 1983, comment on the proposal, NACA argued that exclusive use protection should be available for all data submitted on a new chemical during the 10-year period of exclusive use. This would include the data submitted by the first applicant for registration and any subsequent amendments adding new uses to that product registration within the 10-year period. On this point there is no disagreement. However, NACA interpreted the statute also to provide exclusive use protection to any data submitted to support the second and successive registrations of products containing that new chemical, whether these were applications submitted by the first registrant for a different formulation of the new chemical, or by another applicant altogether. All exclusive use protection would last only for 10 years from the date of first registration, regardless of the date that additional data were submitted to support other applications.

NACA asserted that its interpretation is "the only interpretation that makes sense and that effectively implements the exclusive-use rights that were intended" by Congress. NACA did not, however, cite any provision of the Act or its legislative history in support of this interpretation.

EPA agrees with the policy arguments for extending exclusive use protection to data in support of additional products containing a new chemical, but is concerned that the statute may not permit the interpretation put forward by NACA. FIFRA section 3(c)(1)(D)(i) states that exclusive use protection is available only to data submitted to support "the application for the original registration of the pesticide," or "an amendment adding any new use to the registration." The Agency believes that the most straightforward reading of this language is that it limits exclusive use protection to data in support of the single first application and subsequent amendments to that particular registration, and this rule adopts that reading. EPA may explore this issue further in a future notice of proposed rulemaking.

C. Mandatory Versus Optional Use of "Cite-All" Method

Several commenters (the Pesticide Producers Association, Velsicol Chemical Corp., E.I. duPont de Nemours and Co., and Kimberley-Clark) said that while the cite-all method of satisfying an applicant's obligation under FIFRA section 3(c)(1)(D) is appropriate as an option, it should not be a requirement, and that an applicant also should be allowed to submit or cite what he thinks is a complete data set (comprised of data he has generated or other data he has the right to cite) without having to be concerned with other data. No commenter disagreed with this approach or argued that use of the "cite-all" method should be required. As explained already in this Preamble, the Agency agrees and has adopted this approach.

D. Data Entitled to Protection

One commenter, Burroughs-Wellcome Co., argued that data should be eligible for the protection afforded by FIFRA section 3(c)(1)(D) no matter what the circumstances of its submission to EPA, i.e., even if it were submitted by a person who is neither an applicant nor a registrant. EPA must disagree with this comment because sections 3(c)(1)(D) (i) and (ii) state clearly that data are protected only if submitted to obtain or maintain a registration.

XII. Statutory Review Requirements

In accordance with FIFRA section 25(a), a copy of this rule was provided to the Secretary of Agriculture for comment. The Secretary had no comment on this rule.

Copies were also submitted to the Committee on Agriculture of the U.S. House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the U.S. Senate.

The FIFRA Scientific Advisory Panel waived its review of this rule.

XIII. Regulatory Review Requirements

In order to satisfy requirements for analysis as specified by Executive Order 12291, the Regulatory Flexibility Act, FIFRA section 25, and the Paperwork Reduction Act, the Agency has analyzed the costs and benefits of this rule.

A. Executive Order 12291

This rule describes information that applicants for registration, amended registration, and reregistration of pesticides are required to submit in order to comply with the provisions of FIFRA section 3(c)(1)(D) with respect to submission or citation of data. The selective method gives applicants

freedom to select the method with which they choose to demonstrate compliance for specific data requirements. This rule offers a great deal of flexibility to the applicant in contrast to the rather rigid constraints of the cite-all method for citing registration data. The cite-all method will, however, remain available to those applicants who regard it as being the most efficient means of complying with section 3(c)(1)(D) requirements.

It is not expected that this rule will have significant cost impacts on applicants or registrants. Further, the Agency believes that the benefits derived from this rule in allowing greater freedom in complying with section 3(c)(1)(D) will increase registrations and offset any increased costs involved. For these reasons, the Agency has determined that this rule is not a "major" rule under E.O. 12291. This rule was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

B. Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act (5 U.S.C. 50 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. This conclusion is based on the Agency's regulatory impact analysis cited previously.

As this regulation is intended to facilitate the pesticide registration process, it is not anticipated that significant economic impacts will occur at any level of business enterprise.

Accordingly, I hereby certify that this rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB Control Numbers 2000–0012 and 2000–0468.

List of Subjects in 40 CFR Part 152

Intergovernmental relations, Pesticides and pests, Administrative practices.

Dated: July 25, 1984.

William D. Ruckelshaus,

Administrator.

Therefore, Chapter I of Title 40, Code of Federal Regulations, is amended as follows:

PART 152—PESTICIDE REGISTRATION AND CLASSIFICATION PROCEDURES

1. By adding a new Part 152, consisting at this time of Subpart E, to read as follows:

Subparts A–D—[Reserved]

Subpart E—Procedures To Ensure Protection of Data Submitters' Rights

Sec.

Authority: Secs. 3, 25(a)(1), and 25 (a)(3) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 through 136y).

Subparts A–D—[Reserved]

Subpart E—Procedures To Ensure Protection of Data Submitters' Rights

§ 152.80 General.

This Subpart E (§§ 152.80 through 152.119) describes the information that an applicant must submit with his application for registration, amended registration, or reregistration to comply (and for the Agency to determine compliance) with the provisions of FIFRA section 3(c)(1)(D). This subpart also describes the procedures by which data submitters may challenge registration actions which allegedly failed to comply with these procedures. If the Agency determines that an applicant has failed to comply with the requirements and procedures in this subpart, the application may be denied. If the Agency determines, after registration has been issued, that an applicant failed to comply with these procedures and requirements, the Agency may issue a notice of intent to cancel the product's registration.

(Approved by the Office of Management and Budget under control number 2000–0012.)

§ 152.81 Applicability.

(a) Except as provided in paragraph (b) of this section, §§ 152.82 through 152.119 apply to:

(1) Each application for registration of a new product;

(2) Each application for an amendment of a registration; and

(3) Each application for reregistration under FIFRA section 3(g).

(b) This Subpart E does not apply to:

(1) Applications for registration submitted to States under FIFRA section 24(c);

(2) Applications for experimental use permits under FIFRA section 5;

(3) Applications for emergency exemptions under FIFRA section 18;

(4) Applications to make only one or more of the following types of amendments to existing registrations, unless the Administrator or his designee finds that Agency consideration of scientific data would be necessary in order to approve the amendment under FIFRA section 3(c)(5):

(i) An increase or decrease in the percentage in the product of one or more of its active ingredients or deliberately added inert ingredients;

(ii) A revision of the identity or amount of impurities present in the product;

(iii) The addition or deletion of one or more deliberately added inert ingredients;

(iv) The deletion of one or more active ingredients;

(v) A change in the source of supply of one or more of the active ingredients used in the product, if the new source of the active ingredient is a product which is registered under FIFRA section 3;

(vi) Deletion of approved uses of claims;

(vii) Redesign of the label format involving no substantive changes, express or implied, in the directions for use, claims, representations, or precautionary statements;

(viii) Change in the product name or addition of an additional brand name, if no additional claims, representations, or uses are expressed or implied by the changes;

(ix) Clarification of directions for use;

(x) Correction of typographical errors;

(xi) Changes in the registrant's name or address;

(xii) Adding or deleting supplemental registrants;

(xiii) Changes in the package or container size;

(xiv) Changes in warranty, warranty disclaimer, or liability limitation statements, or addition to or deletion of such statements;

(xv) "Splitting" a label for the sole purpose of facilitating the marketing of a product in different geographic regions with appropriate labels, where each amended label will contain previously approved use instructions (and related label statements) appropriate to a particular geographic region;

(xvi) Any other type of amendment, if the Administrator or his designee determines, by written finding, that the Agency consideration of scientific data would not be necessary in order to approve the amendment under FIFRA section 3(c)(5); and

(xvii) Compliance with Agency Regulations, adjudicatory hearing decisions, notices, or other Agency announcements that unless the registration is amended in the manner the Agency proposes, the product's registration will be suspended or cancelled, or that a hearing will be held under FIFRA section 6. (However, this paragraph does not apply to amendments designed to avoid cancellation or suspension threatened under FIFRA section 3(c)(2)(B) or because of failure to submit data.)

§ 152.83 Definitions.

As used in this subpart, the following terms shall have the meanings set forth in this section:

(a) "Data gap" means the absence of any valid study or studies in the Agency's files which would satisfy a specific data requirement for a particular pesticide product.

(b) "Data Submitters List" means the current Agency list, entitled "Pesticide Data Submitters by Chemical," of persons who have submitted data to the Agency.

(c) "Exclusive use study" means a study that meets each of the following requirements:

(1) The study pertains to a new active ingredient (new chemical) or new combination of active ingredients (new combination) first registered after September 30, 1978;

(2) The study was submitted in support of, or as a condition of approval of, the application resulting in the first registration of a product containing such new chemical or new combination (first registration), or an application to amend such registration to add a new use; and

(3) The study was not submitted to satisfy a data requirement imposed under FIFRA section 3(c)(2)(B);

Provided that, a study is an exclusive use study only during the 10-year period following the date of the first registration.

(d) "Original data submitter" means the person who possesses all rights to exclusive use or compensation under FIFRA section 3(c)(1)(D) in a study originally submitted in support of an application for registration, amended registration, reregistration, or experimental use permit, or to maintain an existing registration in effect. The term includes the person who originally submitted the study, any person to whom the rights under FIFRA section 3(c)(1)(D) have been transferred, or the authorized representative of a group of joint data developers.

(e) "Valid study" means a study that has been conducted in accordance with the Good Laboratory Practice standards of 40 CFR Part 160 or generally accepted scientific methodology and that EPA has not determined to be invalid.

§ 152.84 When materials must be submitted to the Agency.

All information required by this subpart should be submitted with the application, but may be submitted at any later time prior to EPA's approval of the application. The Agency will not approve any application until it determines either that the application is not subject to these requirements or that all required materials have been submitted and are acceptable.

§ 152.85 Formulators' exemption.

(a) FIFRA section 3(c)(2)(D) excuses an applicant from the requirement to submit or cite data pertaining to the safety of any ingredient (or mixture of ingredients) contained in his product that is derived solely from one or more EPA-registered products which the applicant purchases from another producer.

(b) If the product contains one or more ingredients eligible for the formulators' exemption, the applicant need not comply with the requirements of §§ 152.90 through 152.96 with respect to any data requirements pertaining to the safety of any such ingredient, provided that he submits to the Agency a certification statement containing the following information (a form for this purpose is available from the Agency):

(1) Identification of the applicant, and of the product by EPA registration number or file symbol;

(2) Identification of each ingredient in the pesticide that is eligible for the formulators' exemption, and the EPA registration number of the product that is the source of that ingredient;

(3) A statement that the listed ingredients meet the requirements for the formulators' exemption;

(4) A statement that the applicant has submitted (either previously or with the current application) a complete, accurate and current Confidential Statement of Formula; and

(5) The name, title and signature of the applicant or his authorized representative and the date of signature.

(c) An applicant for amended registration is not required to submit a new formulators' exemption statement, if the current statement in Agency files is complete and accurate. However, if a registrant changes his source of any active ingredient, he is required to submit an application for amended registration, together with a new formulators' exemption statement and a revised Confidential Statement of Formula.

(Approved by the Office of Management and Budget under control number 2000-0468.)

§ 152.86 The cite-all method.

An applicant may comply with this subpart by citing all data in Agency files that are pertinent to its consideration of the requested registration under FIFRA section 3(c)(5), in accordance with the procedures in this section, as applicable.

(a) *Exclusive use studies.* The applicant must certify to the Agency that he has obtained, from each person listed on the Data Submitters List as an exclusive use data submitter for the chemical in question, a written authorization that contains at least the following information:

(1) Identification of the applicant to whom the authorization is granted;

(2) Authorization to the applicant to use all pertinent studies in satisfaction of data requirements for the application in question; and

(3) The signature and title of the original data submitter or his authorized representative and date of the authorization.

If the Agency identifies any exclusive use data submitter not on the Data Submitters List, the applicant will be required prior to registration to obtain the necessary written authorization from such person.

(b) *Other studies.* The applicant must certify to the Agency that, with respect to each other person on the Data Submitters List for the chemical in question:

(1) He has obtained from that person a written authorization that contains the information required by paragraphs (a)(1) through (3) of this section; or

(2) He has furnished to that person:

(i) A notification of his intent to apply for registration, including the name of the proposed product, and a list of the product's active ingredients;

(ii) An offer to pay the person compensation to the extent required by FIFRA section 3(c)(1)(D) for any data on which the application relies;

(iii) An offer to commence negotiations to determine the amount and terms of compensation, if any, to be paid for the use of any study; and

(iv) His name, address and telephone number.

(c) *General offer to pay statement.* The applicant must submit to the Agency the following general offer to pay statement:

[Name of applicant] hereby offers and agrees to pay compensation to other persons, with regard to the approval of this application, to the extent required by FIFRA section 3(c)(1)(D) of the Federal Insecticide, Fungicide and Rodenticide Act.

(d) *Acknowledgement of reliance on data.* Each application filed under this section shall include an acknowledgement that for purposes of FIFRA section 3(c)(1)(D) the application relies on the following data:

(1) All data submitted with or specifically cited in the application; and

(2) Each other item of data in the Agency's files which:

(i) Concerns the properties or effects of the applicant's product, of any product which is identical or substantially similar to the applicant's product, or of one or more of the active ingredients in the applicant's product; and

(ii) Is one of the types of data that EPA would require to be submitted if the application sought the initial registration under FIFRA section 3(c)(5) of a product with composition and intended uses identical or substantially similar to the applicant's product, under the data requirements in effect on the date EPA approves the applicant's present application.

§ 152.90 The selective method.

An applicant may comply with this subpart by listing the specific data requirements that apply to his product, its active ingredients, and use patterns, and demonstrating his compliance for each data requirement by submitting or citing individual studies, or by demonstrating that no study has previously been submitted to the Agency. This section summarizes the procdures that an applicant must follow if he chooses the selective method of demonstrating compliance. Sections 152.91 through 152.96 contain specific procedures for citing or submitting a study or demonstrating a data gap.

(a) *List of data requirements.* Each applicant must submit a list of the data requirements that would apply to his pesticide, its active ingredients, and its use patterns, if the product were being proposed for registration under FIFRA section 3(c)(5) for the first time. The applicant need not list data requirements pertaining to any ingredient which qualifies for the formulator's exemption.

(1) If a Registration Standard has been issued for any active ingredient, the applicant must list the applicable data requirements enumerated in that Standard for the active ingredient and, if end use products are covered by the Registration Standard, for such products containing that active ingredient.

(2) If a Registration Standard has not been issued, or if an issued Registration Standard does not cover all data requirements for products containing the active ingredient in question, the applicant must list the applicable requirements as prescribed by 40 CFR Part 158. All required (R) studies, and any studies that could be conditionally required (CR) based upon composition, use pattern, or the results of required studies, are to be listed. The applicant may demonstrate via the data gap procedures in § 152.96 that a conditional requirement need not be satisfied by the submission or citation of data at the time of application.

(b) *Methods of demonstrating compliance.* The applicant must state for each data requirement on the list required by paragraph (a) of this section which of the following methods of compliance with the requirement he is using, and shall provide the supporting documentation specified in the referenced section.

(1) Existence of or granting of a data waiver. Refer to § 152.91.

(2) Submission of a new valid study. Refer to § 152.92.

(3) Citation of a specific valid study previously submitted to the Agency by the applicant or another person, with any necessary written authorizations or offers to pay. Refer to § 152.93.

(4) Citation of a public literature study. Refer to § 152.94.

(5) Citation of all pertinent studies previously submitted to the Agency, with any necessary written authorizations or offers to pay. Refer to § 152.95.

(6) Documentation of a data gap. Refer to § 152.96.

§ 152.91 Waiver of a data requirement.

The applicant may demonstrate compliance for a data requirement by documenting the existence of a waiver in accordance with paragraph (a) of this section, or by being granted a new waiver requested in accordance with paragraph (b) of this section.

(a) *Request for extension of an existing waiver.* An applicant may claim that a waiver previously granted by the Agency also applies to a data requirement for his product. To document this claim, the applicant must provide a reference to the Agency record that describes the previously granted waiver, such as an Agency list of waivers or an applicable Registration Standard, and must explain why that waiver should apply to his product.

(b) *Request for a new waiver.* An applicant who requests a waiver to satisfy a data requirement must submit the information specified in 40 CFR 158.45.

(c) *Effect of denial of waiver request.* If the request for a new waiver or extension of an existing waiver is denied by the Agency, the applicant must choose another method of satisfying the data requirement.

§ 152.92 Submission of a new valid study.

An applicant may demonstrate compliance for a data requirement by submitting a valid study that has not previously been submitted to the Agency. A study previously submitted to the Agency should not be resubmitted but should be cited in accordance with §152.93.

§ 152.93 Citation of a previously submitted valid study.

An applicant may demonstrate compliance for a data requirement by citing a valid study previously submitted to the Agency. The study is not to be submitted to the Agency with the application.

(a) *Study originally submitted by the applicant.* If the applicant certifies that he is the original data submitter, no documentation other than the citation is necessary.

(b) *Study previously submitted by another person.* If the applicant is not the original data submitter, the applicant may cite the study only in accordance with paragraphs (b) (1) through (3) of this section.

(1) *Citation with authorization of original data submitter.* The applicant may cite any valid study for which he has obtained the written authorization of the original data submitter. The applicant must obtain written authorization to cite any study that is an exclusive use study. The applicant must certify that he has obtained from the original data submitter a written

authorization that contains at least the following information:

(i) Identification of the applicant to whom the authorization is granted;

(ii) Identification by title, EPA Accession Number or Master Record Identification Number, and date of submission, of the study or studies for which the authorization is granted;

(iii) Authorization to the applicant to use the specified study in satisfaction of the data requirement for the application in question; and

(iv) The signature and title of the original data submitter or his authorized representative, and date of the authorization.

(2). *Citation with offer to pay compensation to the original data submitter.* The applicant may cite any valid study that is not subject to the exclusive use provisions of FIFRA section 3(c)(1)(D)(i) without written authorization from the original data submitter if the applicant certifies to the Agency that he has furnished to the original data submitter:

(i) A notification of the applicant's intent to apply for registration, including the proposed product name and a list of the product's active ingredients;

(ii) Identification of the specific data requirement involved and of the study for which the offer to pay is made (by title, EPA Accession Number or Master Record Identification Number, and date of submission, if possible);

(iii) An offer to pay the person compensation to the extent required by FIFRA section 3(c)(1)(D);

(iv) An offer to commence negotiations to determine the amount and terms of compensation, if any, to be paid for the use of the study; and

(v) The applicant's name, address and telephone number.

(3) *Citation without authorization or offer to pay.* The applicant may cite any valid study without written authorization from, or offer to pay to, the original data submitter, if:

(i) The study was originally submitted to the Agency on or before December 31, 1969; or

(ii) The study was originally submitted to the Agency on or before the date that is 15 years before the date of the application for which it is cited, and the study is not an exclusive use study, as defined in § 152.83(c).

§ 152.94 Citation of a public literature study or study generated at government expense.

(a) An applicant may demonstrate compliance for a data requirement by citing, and submitting to the Agency, one of the following:

(1) A valid study from the public literature.

(2) A valid study generated by, or at the expense of, any government (Federal, State, or local) agency.

(b) In no circumstances does submission of a public literature study or government-generated study confer any rights on the data submitter to exclusive use of data or compensation under FIFRA section 3(c)(1)(D).

§ 152.95 Citation of all studies in the Agency's files pertinent to a specific data requirement.

An applicant normally may demonstrate compliance for a data requirement by citation of all studies in the Agency's files pertinent of that data requirement. The applicant who selects this cite-all option must submit to the Agency:

(a) A general offer to pay statement having the same wording as that specified in § 152.86(c) except that the offer to pay may be limited to apply only to data pertinent to the specific data requirement(s) for which the cite-all method of support has been selected;

(b) A certification that:

(1) For each person who is included on the Data Submitters List as an original data submitter of exclusive use data for the active ingredient in question, the applicant has obtained a written authorization containing the information required by § 152.86(a) for the use the any exclusive use study that would be pertinent to the applicant's product; and

(2) For each person included on the current Data Submitters List as an original data submitter of data that are not exclusive use for the active ingredient in question, the applicant has furnished:

(i) A notification of the applicant's intent to apply for registration, including the name of the proposed product, and a list of the product's active ingredients;

(ii) Identification of the specific data requirement(s) for which the offer to pay for data is being made;

(iii) An offer to pay the person compensation to the extent required by FIFRA section 3(c)(1)(D);

(iv) An offer to commence negotiations to determine the amount and terms of compensation, if any, to be paid for use of any study; and

(v) The applicant's name, address and telephone number; and

(c) An acknowledgment having the same wording as that specified in § 152.86(d), except that it may be limited to apply only to data pertinent to the specific data requirement(s) for which the cite-all method of support has been selected.

§ 152.96 Documentation of a data gap.

Except as provided in paragraph (a) of this section, an applicant may defer his obligation to satisfy an applicable data requirement until the Agency requests the data if he can demonstrate, by the procedure in this section, that no other person has previously submitted to the Agency a study that would satisfy the data requirement in question.

(a) *When data gap procedures may not be used.* (1) An applicant for registration of a product containing a new chemical may not defer his obligation by the procedure in this section, unless he can demonstrate to the Agency's satisfaction that the data requirement was imposed so recently that insufficient time has elapsed for the study to have been completed and that, in the public interest, the product should be registered during the limited period of time required to complete the study. Refer to FIFRA section 3(c)(7)(C).

(2) An applicant for registration of a product under FIFRA section 3(c)(7) (A) or (B) may not defer his obligation by the procedure in this section if the Agency requires the data to determine:

(i) Whether the product is identical or substantially similar to another currently registered product or differs only in ways that would not substantially increase the risk of unreasonable adverse effects on the environment;

(ii) If efficacy data are required, whether the product is efficacious; or

(iii) Whether the new use would substantially increase the risk of unreasonable adverse effects on the environment, usually required when the application involves a new use of a product which is identical or substantially similar to a currently registered product.

b. *Data gap listed in a Registration Standard.* The applicant may rely on a data gap that is documented by a Registration Standard without submitting the certification required by paragraph (c) of this section. If the data gap listed in the Registration Standard has been filled since the issuance of the Standard, the Agency will notify the applicant and require him to choose another method of demonstrating compliance.

(c) *Certification of a data gap.* Except as provided by paragraph (b) of this section, an applicant who wishes to claim that a data gap exists must certify to the Agency that:

(1) The applicant has furnished, by certified mail, to each original data submitter on the current Data Submitters List for the active ingredient

in question, a notice containing the following information:

(i) The name and address of the applicant;

(ii) The name of the product, and a statement that the applicant intends to apply for registration of that product;

(iii) The name(s) of the active ingredient(s) in the procuct;

(iv) A list of the data requirements for which the applicant intends to claim under this section that a data gap exists; and

(v) A request that the data submitter identify, within 60 days of receipt of the notice, any valid study which he has submitted to the Agency that would fulfill any of the data requirement(s) listed.

(2) The applicant has, within that 60-day period, received no response, or has received a negative response, from each person notified; and

(3) The applicant has no basis to believe that any data have been submitted to the Agency that would fulfill the data requirement, and is entitled to claim that a data gap exists.

(d) *Requirement to obtain permission or make offer to pay.* In responding to a data gap letter, the original data submitter is not deemed to have given his authorization for the applicant to cite any study which the data submitter identifies in his response. The applicant must seek and obtain specific written authorization from, or make an offer to pay to, the original data submitter to cite the identified study in order to demonstrate compliance for the data requirement. Nothing, however, precludes the applicant from requesting written authorization or making an offer to pay at the same time that he requests confirmation of a data gap.

§ 152.97 Rights and obligations of data submitters.

(a) *Right to be listed on Data Submitters List.*

(1) Each original data submitter shall have the right to be included on the Agency's Data Submitters List.

(2) Each original data submitter who wishes to have his name added to the current Data Submitters List must submit to the Agency the following information:

(i) Name and current address;

(ii) Chemical name and common name (if any) of the active ingredient(s), with respect to which he is an original data submitter;

(iii) For each such active ingredient, the type(s) of study he has previously submitted (corresponding to Guidelines reference numbers given in tables in 40 CFR Part 158, if applicable), the date of submission, and the EPA registration number, file symbol, or other identifying reference for which it was submitted.

(3) Each applicant not already included on the Data Submitters List for a particular active ingredient must inform the Agency at the time of submission of a relevant study whether he wishes to be included on the Data Submitters List for that pesticide.

(b) *Obligation to respond to data gap letters.* An applicant who chooses to defer his obligation by demonstrating the existence of a data gap must write to each original data submitter for confirmation that the data submitter has not submitted a valid study that would satisfy the requirement. The original data submitter is not required to respond to such letters. However, if he fails to respond, the applicant is entitled to assume (and the Agency will act on the assumption) that the original data submitter has not submitted a study to satisfy the requirement. The data submitter may thereby limit his right to later challenge the applicant's claim if he fails respond in writing delivered to the applicant within 60 days of receipt of the applicant's data gap letter.

§ 152.98 Procedures for transfer of exclusive use or compensation rights to another person.

A person who possesses rights to exclusive use or compensation under FIFRA section 3(c)(1)(D) may transfer such rights to another person in accordance with this section.

(a) The original data submitter must submit to the Agency a transfer document that contains the following information:

(1) The name, address and state of incorporation (if any) of the original data submitter (the transferor);

(2) The name, address and state of incorporation (if any) of the person to whom the data rights are being transferred (the transferee);

(3) Identification of each item of data transferred including:

(i) The name of the study or item of data;

(ii) Whether the study is an exclusive use study, and, if so, when the period of exclusive use protection expires;

(iii) The name of the person or laboratory that conducted the study;

(iv) The date the study was submitted to the Agency;

(v) The EPA document number assigned to the item of data (the Master Record Identification Number or Accession Number), if known. If not known, the EPA administrative number (such as the EPA Registration Number, petition number, file symbol, or permit number) with which the item of data was submitted, such that the Agency can identify the item of data.

(vi) A statement that the transferor transfers irrevocably to the transferee all rights, titles, and interest in the items of data named;

(vii) A statement that the transferor and transferee understand that any false statement may be punishable under 18 U.S.C. 1001; and

(viii) The names, signatures and titles of the transferor and transferee, and the date signed.

(b) In addition, the original data submitter must submit to the Agency a notarized statement affirming that:

(1) The person signing the transfer agreement is authorized by the original data submitter to bind the data submitter;

(2) No court order prohibits the transfer, and any required court approvals have been obtained; and

(3) The transfer is authorized under Federal, State, and local law and relevant corporate charters, bylaws or partnership agreements.

(c) The Agency will acknowledge the transfer of the data by notifying both transferor and transferee, and will state the effective date of the transfer. Thereafter the transferee will be considered to be the original data submitter of the items of data transferred for all purposes under FIFRA section 3(c)(1)(D), unless a new transfer agreement is submitted to the Agency.

§ 152.99 Petitions to cancel registration.

An original data submitter may petition the Agency to deny or cancel the registration of a product in accordance with this section if he has submitted to the Agency a valid study which, he claims, satisfies a data requirement that an applicant purportedly has failed to satisfy.

(a) *Grounds for petition.* (1) If an applicant has offered to pay compensation to an original data submitter of a study (either specifically or by filing a general offer to pay statement), the original data submitter may petition the Agency to deny or cancel the registration to which the offer related on any of the following grounds:

(i) The applicant has failed to participate in an agreed-upon procedure for reaching an agreement on the amount and terms of compensation. The petitioner shall submit a copy of the agreed-upon procedure and describe the applicant's failure to participate in the procedure.

(ii) The applicant has failed to comply with the terms of an agreement on compensation. The petitioner shall submit a copy of the agreement, and

shall describe how the applicant has failed to comply with the agreement.

(iii) The applicant has failed to participate in an arbitration proceeding. The petitioner shall submit evidence of such failure.

(iv) The applicant has failed to comply with the terms of an arbitration decision. The petitioner shall submit a copy of the arbitration decision, and describe how the applicant has failed to comply with the decision.

(2) When no offer to pay has been made, the petitioner shall state in his petition the basis for the challenge, and describe how the failure of the applicant to comply with the procedures of this subpart has deprived him of the rights accorded him under FIFRA section 3(c)(1)(D). Possible grounds for challenge include, but are not limited to, the following:

(i) The applicant has failed to list a data requirement applicable to his product, or has failed to demonstrate compliance with all applicable data requirements.

(ii) The applicant has submitted or cited a study that is not valid.

(iii) The applicant has submitted or cited a study that does not satisfy the data requirement for which it was submitted or cited.

(iv) The applicant has failed to comply with the procedure for showing that a data gap exists.

(v) The applicant has improperly certified that a data gap exists. An original data submitter who has failed without good cause to respond to an applicant's request for confirmation of a data gap may not petition the Agency for review on this basis.

(vi) The applicant has submitted or cited a study originally submitted by the petitioner, without the required authorization or offer to pay.

(b) *Procedure for petition to the Agency*—(1) *Time for filing.* A petition under paragraph (a)(1) of this section may be filed at any time that the circumstances warrant. A petition under paragraph (a)(2) of this section must be filed within one year after the Agency makes public the issuance of the registration.

(2) *Notice to affected registrant.* At the same time that the petitioner files his petition with the Agency, he shall send a copy by certified mail to the affected applicant or registrant. The applicant or registrant shall have 60 days from the date of his receipt of the petition to submit written comments to the Agency.

(c) *Disposition of petitions.* The Agency will consider the material submitted by the petitioner and the response, if any, by the affected applicant or registrant.

(1) If the Agency determines that the petition is without merit, it will inform the petitioner and the affected applicant or registrant that the petition is denied. Denial of a petition is a final Agency action.

(2) If the Agency determines that an applicant has acted in any way described by paragraph (a)(1) of this section, the Agency will notify the petitioner and the affected applicant or registrant that it intends to deny or cancel the registration of the product in support of which the data were cited. The affected applicant or registrant will have 15 days from the date of delivery of this notice to respond. If the Agency determines, after considering any response, that the affected applicant or registrant has acted in the ways described by paragraph (a)(1) of this section, the Agency will deny or cancel the registration without further hearing. Refer to FIFRA section 3(c)(1)(D)(ii). Denial or cancellation of a registration is a final Agency action.

(3) Except as provided in paragraph (c)(2) of this section, if the Agency determines that an applicant for registration of a product has acted in any way that deprives an original data submitter of rights under FIFRA section 3(c)(1)(D), the Agency will take steps to deny the application or cancel the registration, as appropriate. The procedures in FIFRA section 3(c)(6) or section 6(b) shall be followed. Denial or cancellation is a final Agency action.

(d) *Hearing.* Any hearing will be conducted in accordance with the procedures in 40 CFR Part 164. The only matter for resolution at the hearing shall be whether the registrant failed to comply with the requirements and procedures of FIFRA section 3(c)(1)(D) or of this subpart, in the manner described by the petitioner. A decision following a hearing shall be final.

§ 152.116 Notice of intent to register to original submitters of exclusive use data.

(a) Except as provided in paragraph (c) of this section, at least 30 days before registration of a product containing an active ingredient for which a previously submitted study is eligible for exclusive use under FIFRA section 3(c)(1)(D)(i), the Agency will notify the original submitter of the exclusive use study of the intended registration of the product. If requested by the exclusive use data submitter within 30 days, the Agency will also provide the applicant's list of data requirements and method of demonstrating compliance with each data requirement.

(b) Within 30 days after receipt of the Agency's notice, or of the applicant's list of data requirements, whichever is later, the exclusive use data submitter may challenge the issuance of the registration in accordance with the procedures in § 152.99 (b) and (c). If the Agency finds that the challenge has merit, it will issue a notice of intent to deny the application. The applicant may then avail himself of the hearing procedures provided by FIFRA section 3(c)(6). If the Agency finds that the challenge is without merit, it will deny the petition and register the applicant's product. Denial of the petition is a final Agency action.

(c) If an applicant has submitted to the Agency a certification from an exclusive use data submitter that he is aware of the applicant's application for registration, and does not object to the issuance of the registration, the Agency will not provide the 30-day notification described in paragraph (a) of this section to that exclusive use data submitter.

§ 152.119 Availability of material submitted in support of registration.

(a) The information submitted to support a registration application shall be part of the official Agency file for that registration.

(b) Within 30 days after registration, the Agency will make available for public inspection the materials required by Subpart E to be submitted with an application. Materials that will be publicly available include an applicant's list of data requirements, the method used by the applicant to demonstrate compliance for each data requirement, and the applicant's citations of specific studies in the Agency's possession if applicable.

(c) Except as provided by FIFRA section 10, within 30 days after registration, the data on which the Agency based its decision to register the product will be made available for public inspection, upon request, in accordance with Freedom of Information procedures in 40 CFR Part 2.

PART 162—[AMENDED]

§§ 162.9–1 through 162.9–8 [Removed]

2. By removing §§ 162.9–1, 162.9–2, 162.9–3, 162.9–4, 162.9–5, 162.9–6, 162.9–7, and 162.9–8.

[FR Doc. 84–20295 Filed 7–31–84; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 152

[OPP-250057; FRL-2644-5]

Pesticide Registration and Classification Procedures; Notification to the Secretary of Agriculture of a Final Regulation on Procedures To Ensure Protection of Data Submitters' Rights

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a final regulation which describes methods that applicants for registration, amended registration, and reregistration of pesticides can use to comply with the provisions of FIFRA sec. 3(c)(1)(D) with respect to submission or citation of data. This action is required by section 25(a)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Jean M. Frane, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the **Federal Register** any time after the 15-day period.

As required by FIFRA section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Sec. 25, Pub. L. 92-516, 86 Stat. 973 as amended; (7 U.S.C. 136 et seq.))

Dated: July 25, 1984.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 84-20294 Filed 7-31-84; 8:45 am]

BILLING CODE 6560-50-M

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Federal Register

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Wednesday, August 1, 1984

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30679-30910.....1

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 1984

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In computing these dates, the day after publication is counted as the first day.

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A new table will be published in the first issue of each month.

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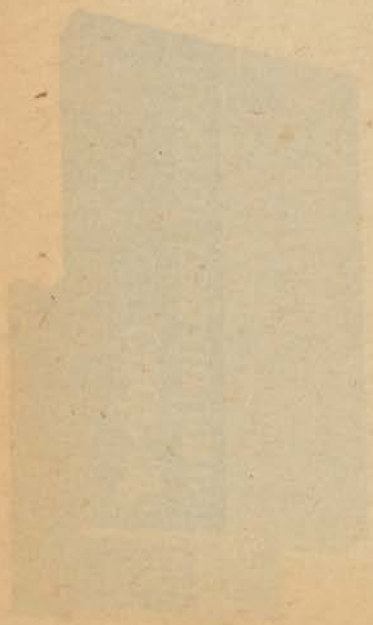
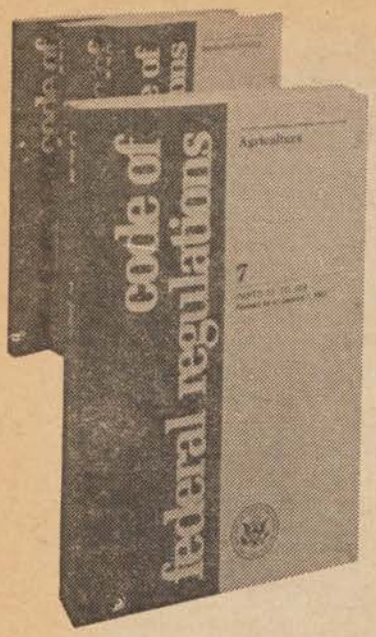
August 30	September 14	October 1	October 15	October 29	November 28
August 31	September 17	October 1	October 15	October 30	November 29





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